



भारत का राजपत्र The Gazette of India

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प्राधिकार से प्रकाशित
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सं. 41] नई दिल्ली, अक्टूबर 8—अक्टूबर 14, 2023, शनिवार/ आश्विन 16—आश्विन 22, 1945
No. 41] NEW DELHI, OCTOBER 8—OCTOBER 14, 2023, SATURDAY/ASVINA 16—ASVINA 22, 1945

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

पेट्रोलियम और प्राकृतिक गैस मंत्रालय
नई दिल्ली, 27 सितम्बर, 2023

का.आ. 1625.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में पेट्रोलियम और प्राकृतिक गैस मंत्रालय के प्रशासनिक नियंत्रणाधीन सार्वजनिक क्षेत्र के उपक्रम के निम्नलिखित कार्यालयों को, जिनके 80 या अधिक प्रतिशत कर्मचारीवृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है:-

1. भुवनेश्वर टर्मिनल,
इंडियन ऑयल कॉर्पोरेशन लिमिटेड,
(विपणन प्रभाग), चंचारिया, जटनी, ओडिशा
2. पारादीप रिफाइनरी समन्वय कार्यालय,
इंडियन ऑयल कॉर्पोरेशन लिमिटेड,
(विपणन प्रभाग), जगतसिंघपुर, ओडिशा

[फा. सं. 11012/3/2021-रा.भा.]
शोभना श्रीवास्तव, उप निदेशक (राजभाषा)

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 27th September, 2023

S.O. 1625(E).—In pursuance of Sub Rule (4) of Rule 10 of the Official Language (Use for official purpose of the Union) Rules, 1976, the central Government hereby notifies the following offices of the Public Sector undertaking under the administrative control of the Ministry of Petroleum & Natural Gas, in which 80 or more percent of the staff have acquired working Knowledge of Hindi:-

1. **Bhubaneswar Terminal,
Indian Oil Corporation Limited,
(Marketing Division), Changhariya, Jatni, Odisha**
2. **Paradip Refinery Coordination Office,
Indian Oil Corporation Limited,
(Marketing Division), Jagatsinghpur, Odisha**

[F. No. 11012/3/2021-OL]

SHOBHANA SRIVASTAVA, Dy. Director (OL)

वाणिज्य एवं उद्योग मंत्रालय**(वाणिज्य विभाग)**

नई दिल्ली, 10 अक्टूबर, 2023

का.आ. 1626.—केन्द्रीय सरकार, निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) के साथ पठित निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) नियम, 1964 के नियम 12, के उपनियम (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स एसजीएस इंडिया प्राइवेट लिमिटेड, इकोस्पेस, ब्लोक-3 ए, दूसरी मंजिल ईस्ट विंग परिसर, आई.आई.एफ/11 एक्शन एरिया-II, राजरहाट, न्यू टाउन, कोलकाता- 700160, (जिसे एतदपश्चात् उक्त अभिकरण कहा जायेगा), को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से तीन वर्ष के लिए, वाणिज्य मंत्रालय की शासकीय राजपत्र में प्रकाशित भारत सरकार की अधिसूचना के साथ अनुसूची में निर्दिष्ट दिनांक 20 दिसम्बर, 1965 की अधिसूचना की संका.आ. 3975, के तहत प्रकाशित अधिसूचना में उपाबद्ध अनुसूची में विनिर्दिष्ट खनिज और अयस्क समूह-I, अर्थात् फेरोमैंगनीज तथा लौह अयस्क, के निर्यात से पूर्व निम्नलिखित शर्तों के अधीन कोलकाता पत्तन और हल्दिया पत्तन में उक्त खनिज और अयस्क के निरीक्षण करने के लिए एक अभिकरण के रूप में मान्यता देती है, अर्थात् :

(i) यह अभिकरण, खनिज और अयस्क समूह-I का निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अधीन निरीक्षण की पद्धति की जाँच करने के लिये निर्यात निरीक्षण परिषद् द्वारा निमित्त अधिकारियों को पर्याप्त सहयोग और सहायता प्रदान करेगी; और

(ii) यह अभिकरण, इस अधिसूचना में यथा विनिर्दिष्ट अपने कार्यों का निष्पादन करने के लिए, निदेशक (निरीक्षण और गुणवत्ता नियंत्रण) निर्यात निरीक्षण परिषद् द्वारा समय-समय पर, लिखित रूप में, दिए गए निर्देशों से आबद्ध होंगी।

[फा. सं. के-16014/11/2023 - निर्यात निरीक्षण]

विपुल बंसल, संयुक्त सचिव

MINISTRY OF COMMERCE AND INDUSTRY

(Department of Commerce)

New Delhi, the 10th October, 2023

S.O. 1626(E).—In exercise of the powers conferred by sub-section (1) of section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963) read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government now recognizes, M/s SGS India Private Limited, Ecospace, Block-3A, 2nd Floor East wing Premises, IIF/11, Action Area-II Rajarhat, New Town, Kolkata- 700160 (hereinafter referred to as the said agency), as an agency for three years with effect from the date of publication of this notification in the Official Gazette, for the inspection of Minerals & Ores, Group - I, namely, Ferromanganese and Iron Ore, as specified in the Schedule annexed to the notification of the Government of India in the Ministry of Commerce, published in the Official Gazette *vide* number S.O.3975 dated 20th December, 1965, respectively, before export of the said Minerals and Ores at Kolkata Port, and Haldia Port, subject to the following conditions, namely: -

(i) the said agency shall extend adequate cooperation and assistance to the officers nominated by the Export Inspection Council on this behalf to carry out the inspection specified under rule 4 of the Export of Minerals and Ores – Group I (Inspection) Rules, 1965; and

(ii) the said agency, in performance of their function as specified in this notification, shall be bound by such directions, as the Director (Inspection and Quality Control), Export Inspection Council may give, in writing from time to time.

[F. No. K-16014/11/2023 - Export Inspection]

VIPUL BANSAL, Jt. Secy.

नई दिल्ली, 10 अक्टूबर, 2023

का.आ. 1627.—केन्द्रीय सरकार, निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) के साथ पठित निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) नियम, 1964 के नियम 12, के उपनियम (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स थेराप्यूटिक्स केमिकल रिसर्च कारपोरेशन, 204, 205, 304, 305 शिव इंडस्ट्रियल, एस्टेट, बाइकुला गुड्स डिपो के पास क्रांति वीरभाई बालमुकुंद मार्ग, चिंचपोकली, मुंबई, महाराष्ट्र-400012 (जिसे एतदपश्चात् उक्त अभिकरण कहा जायेगा), को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से तीन वर्ष के लिए, वाणिज्य मंत्रालय की शासकीय राजपत्र में प्रकाशित भारत सरकार की अधिसूचना के साथ अनुसूची में निर्दिष्ट दिनांक 20 दिसम्बर, 1965 की अधिसूचना की संका.आ. 3975, के तहत प्रकाशित अधिसूचना में उपाबद्ध अनुसूची में विनिर्दिष्ट खनिज और अयस्क समूह-I, अर्थात् बॉक्साइट तथा लौह अयस्क, के निर्यात से पूर्व निम्नलिखित शर्तों के अधीन धरमतर पत्तन, रेडी पत्तन, जेएसडब्लू पत्तन, और आंग्रे पत्तन में उक्त खनिज और अयस्क के निरीक्षण करने के लिए एक अभिकरण के रूप में मान्यता देती है, अर्थात् :

(i) यह अभिकरण, खनिज और अयस्क समूह-I का निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अधीन निरीक्षण की पद्धति की जाँच करने के लिये निर्यात निरीक्षण परिषद् द्वारा निमित्त अधिकारियों को पर्याप्त सहयोग और सहायता प्रदान करेगी; और

(ii) यह अभिकरण, इस अधिसूचना में यथा विनिर्दिष्ट अपने कार्यों का निष्पादन करने के लिए, निदेशक (निरीक्षण और गुणवत्ता नियंत्रण) निर्यात निरीक्षण परिषद् द्वारा समय-समय पर, लिखित रूप में, दिए गए निर्देशों से आबद्ध होंगी।

[फा. सं. के-16014/10/2023-निर्यात निरीक्षण]

विपुल बंसल, संयुक्त सचिव

New Delhi, the 10th October, 2023

S.O. 1627(E).—In exercise of the powers conferred by sub-section (1) of section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963) read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government now recognizes, M/s Therapeutics Chemical Research Corporation, 204, 205, 304, 305, Shiv Industrial Estate, Near Byculla Goods Depot, Kranti Veerbhai Balmukund Marg, Chinchpokli, Mumbai, Maharashtra- 400012 (hereinafter referred to as the said agency), as an agency for three years with effect from the date of publication of this notification in the Official Gazette, for the inspection of Minerals & Ores, Group - I, namely, Bauxite and Iron Ore, as specified in the Schedule annexed to the notification of the Government of India in the Ministry of Commerce, published in the Official Gazette *vide* number S.O.3975 dated 20th December, 1965, respectively, before export of the said Minerals and Ores at Dharamtar Port, Redi Port, JSW Port and Angre Port subject to the following conditions, namely: -

(i) the said agency shall extend adequate cooperation and assistance to the officers nominated by the Export Inspection Council on this behalf to carry out the inspection specified under rule 4 of the Export of Minerals and Ores – Group I (Inspection) Rules, 1965; and

(ii) the said agency, in performance of their function as specified in this notification, shall be bound by such directions, as the Director (Inspection and Quality Control), Export Inspection Council may give, in writing from time to time.

[F. No. K-16014/10/2023-Export Inspection]

VIPUL BANSAL, Jt. Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 25 सितम्बर, 2023

का.आ. 1628.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मुख्य महाप्रबंधक, दूरसंचार, बीएसएनएल, एबिड्स, हैदराबाद; सहायक महाप्रबंधक (प्रशासन), कार्यालय सीजीएमटी, ए.पी. सर्कल, हैदराबाद, के प्रबंधन के संबद्ध नियोजकों और श्री वनिगल्ला वेंकटेश्वर राव, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-हैदराबाद पंचाट(संदर्भ संख्या 14/2017) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 25.09.2023 को प्राप्त हुआ था।

[सं. एल-42025-07-2023-196-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 25th September, 2023

S.O. 1628.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. L.C.No. 14/2017) of the **Central Government Industrial Tribunal cum Labour Court – Hyderabad** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Chief General Manager, Telecommunications, BSNL, Abids, Hyderabad; The Assistant General Manager (Admn.), O/o CGMT, A.P. Circle, Hyderabad, and Shri Vanigalla Venkateswar Rao, Worker**, which was received along with soft copy of the award by the Central Government on 27.06.2023.

[No. L-42025-07-2023-196-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT
HYDERABAD****Present: - Sri Irfan Qamar, Presiding Officer**Dated the 26th day of April, 2023**INDUSTRIAL DISPUTE L.C.No. 14/2017**

Between:

Sri Vanigalla Venkateswar Rao,

S/o Nagabhushanam,

R/o Keshavapuram (V) Muddunuru(Post)

Thallad(M) Khammam District.

.....Petitioner

AND

1. The Chief General Manager,
Telecommunications, BSNL,
Abids, Hyderabad.

2. The Assistant General Manager (Admn.)
O/o CGMT, A.P. Circle,
Hyderabad – 1.

....Respondents

Appearances:

For the Petitioner : M/s. M.V. Hanumantha Rao, Advocates

For the Respondent: Sri S. Prabhakar Reddy, Advocate

AWARD

Sri Vanigalla Venkateswar Rao, who worked as Mazdoor (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents, Railway Electrification Project (REF), BSNL, Secunderabad seeking for declaring the proceeding No. TA/STB/20-2/REP/06-10/53 dated 8.6.2010 issued by the Respondent as illegal, arbitrary, discriminatory, violative of principles of natural justice and to set aside the same consequently directing the Respondents to regularize or re-engage the Petitioner into service duly granting all the consequential benefits and such other reliefs as this court may deem fit.

2. The averments made in the petition in brief are as follows:

It is submitted that the Petitioner has worked as Mazdoor in Railway Electrification Project(REF) Secunderabad to Nagpur from 1.1.1994 to 30.9.1996 for 1004 days along with others. The Petitioner submitted that thereafter he along with others continued on voucher payment basis for some time and thereafter on contract basis. Petitioner along with others have been requesting for regularization or to provide regular work still no action has been taken by the department, though they have worked for a considerable period. Further, petitioner came to know that by proceedings dated 21.11.2000 similarly situated 79 persons have been regularized by giving them "temporary status" by the respondent, in fact those persons are juniors to the petitioner and other similarly situated persons. Petitioner hails from poor family and have been pursuing the authorities since long time with a hope that the department would consider her claim in a positive manner. Petitioner submits that, as there was no action taken by the respondents he along with others approached Hon'ble Central Administrative Tribunal, Hyderabad Bench, at Hyderabad by filing OA. Nos. 100/10 and 101/10 and the Hon'ble Tribunal after hearing both the parties disposed of the OAs, on 10.2.2010 with specific directions "since the applicants in the OA also have similar claims as the applicants in the WP.No.12872/08, I consider it appropriate to dispose of this Original Application by giving a direction to the applicants to file individual representations to the respondents giving full details namely, their addresses, places at which they were engaged, the period for which they were engaged etc., within a period of 4 weeks and on receipt of such representations, the respondents shall examine their applications with reference to the records and the scheme that was in force and pass orders within a period of 3 months from the date of receipt of such representation." It is submitted that, as per the orders of the Hon'ble Tribunal the petitioner and others have submitted elaborate representations to the Respondent No.1 along with order passed by Hon'ble Tribunal and also attendance book etc. on 3.3.2010 the Respondent No.1 instead of appreciating the circumstances and without proper verification of records and without providing opportunity of being heard, Respondent has issued the impugned letter dt.8.6.2010 stating,

“ i) With reference to the representation, pursuant to the directions of the Hon'ble Tribunal dated 10.2.2010 in OA. No.100/10 it is informed that the same has been duly considered having regard to the policy and availability of records and it is regretted that it is not open to re-engage you as casual labours or grant of temporary status under the scheme dt.7.10.1989 which has exclusive application to casual labour who have engaged prior to 31.10.1985 up to 22.6.1988 and continued as such. The following have duly taken into consideration for the aforesaid decision. All the casual labours who were eligible as per letter dt.29.9.2000 of DOT were regularized as one time measure.

(ii) Records pertaining to Railway electrification Project are not available for due verification of information furnished by you as they were weeded out as per the retention schedule. The letter of appointment and payment thereof is requisite record to verify your engagement from 1.1.1994 to 30.9.1996 and the basis for the same while DOT, New Delhi letter No.270-6/84-STN dt.22.6.1988 imposed ban on engagement of casual labours including project circle.

(iii) The certification by the Divisional Engineer about such engagement is not acceptable in the absence of records as indicated above.

(iv) It is stated that you have been disengaged as casual labour and also thereafter continued with contractor and thus there is no employer-employee relationship at any point of time thereafter and as such there is no scope to re-engage you as casual labour and also in view of the complete ban as per DOT, New Delhi letter no.269-4/93 STN-II dt. 12.2.1999 and further affirmed vide letter no.269-4/93/STN II dt.15.6.1999 and the said policy is continuing.

v) The violation of provisions of Sec.25F of ID Act, 1947 having questioned in the appropriate forum at any time and as such disengagement has become final for all purposes.

vi) This disposes of your representation and it is hereby clarified that no further correspondence will be entertained on this subject.”

Petitioner submitted that the proceedings dated 8.6.2010 are ex.facie illegal, arbitrary, discriminatory and contrary to record and violative of principles of natural justice and violative of Art. 14 and 16 of Constitution of India. It is submitted when similarly situated persons were regularized the respondent ought to have extended the same benefit to the petitioner also. Further, the reasoning recorded by the respondent as mentioned in the clause-(i) of the impugned order stating that benefit of extension of temporary status under scheme dated 7.10.1989 is only for casual labours who have engaged prior to 31.10.1985 up to 22.6.1988 is not tenable and when the department had extended similar benefit to similarly situated persons and having extracted work from the petitioner during subsequent period, denial of said benefit amounts discrimination. The contention of the respondents as mentioned in clause-(ii), records pertaining to Railway Electrification Project are not available as have weeded out as per the retention schedule is also not tenable. It is submitted non-availability of the records in the department cannot be attributed to the petitioner and respondent ought to have accepted the records produced by the petitioner. It is submitted regarding para no (4) of the impugned order that when similarly situated persons were engaged and records shows the services rendered by the petitioner the contention that there is no relationship as employer and employee is also not tenable. Clause (5) of the order is not maintainable in respect of the claims of petitioner as he has been pursuing with the department to re-engage him in the respondent department in view of their past experience. The petitioner is having record and also the department had considered similarly situated persons as such the petitioner is entitled for relief. It is submitted that the impugned order is not only illegal but also contrary to earlier directions issued by the Hon'ble Central Administrative Tribunal as such as a last resort the petitioner is approaching this Hon'ble court. The petitioner, along with others approached Hon'ble Central Administrative Tribunal Hyderabad Bench at Hyderabad and filed OA. No. 1229/2010 and after hearing both the sides the Hon'ble Tribunal has directed the applicants therein to approach concerned Labour court under Industrial Dispute Act, 1947 and hence, this petition. It is submitted the petitioner and others have filed their concerned days book duly signed by the employer on every month ending, identity card, etc., the days book clearly postulates all the relevant information of the petitioner with regard to work i.e. MRPTS work, cable work, or alignment, store work, etc., and Petitioner was paid Rs.60/- per day. It is therefore prayed that this Hon'ble Tribunal may be pleased to i) Declare the impugned letter No.TA/STB/20-2/REP/06-10/53 dated 8.6.2010 issued by the respondent as illegal arbitrary, discriminatory and violative of principles of natural justice and consequently set aside the said letter.

3. The Respondents filed counter denying the averments made in the petition, with the averments in brief which runs as follows:

The Respondent submitted that the claim petition is misconceived and is barred by limitation. There is no engagement of casual labour in BSNL, after 1.10.2000 and the casual labour who have been engaged as such before the imposition of ban vide letter No.270/6/84-STN, New Delhi dated 30.3.1985 and letter No.270-6/84-STN dated 22.6.1988 for the project circles and the line dismantling in the Electrification project circles have been continued in BSNL as a matter of policy and the Petitioner having been engaged in the project after the imposition of ban vide letter dated 22.6.1988 is not covered by the policy thereof and it is not open for the Petitioner to assert for reengagement or regularization under the said policy. The claimant is confusing the Hon'ble Tribunal with regard to the letter No.TA/STB/20-2/REP/06-10/22 dated 27.4.2010 pursuant to the directions of the Hon'ble Central

Administrative Tribunal dated 10.2.2010, in OA No.100/2010 filed in continuation of WP No.12872/2008 in the High Court seeking for the identical relief and the communication dated 27.4.2010 based on the directions dt.10.2.2010 in O.A.No.100/2010 to comply with a judicial order notwithstanding the fact that the said O.A.No.100/2010 is misconceived and not maintainable having regard to the definition of employee in Rule 3(8) of BSNL & CDA Rules, 2006 implemented as such from 10.1.2006 thereby leaving no scope to exercise any jurisdiction by the Hon'ble Tribunal and on 28.2.2011 in O.A.No.1229/2010. It is not open for the claimant to assail the same before this Hon'ble Court in any manner for any purpose. The Railway Electrification project for line dismantling is distinct and different and the said project is out side jurisdiction of the respondent thereby leaving no scope to reengage any casual labour engaged by the said projects organization after the imposition of the ban and disengaging thereafter and entrustment of the work to a contractor thereby leaving no scope for reengagement and regularization as per the settled law. The Petitioner is relying on the documents which do not form part of the record of the respondent without any letters of engagement and payment particulars while the maintenance of the records in not the administrative concern of the answering respondent and no records as such are maintained after the expiry of three years relating to muster roll as per the retention schedule. It is therefore prayed that this Hon'ble Tribunal may be pleased to dismiss the claim petition.

4. Petitioner filed chief examination affidavit and examined himself as WW1 reiterating the facts stated in claim petition stated that, he has worked as Mazdoor (casual labour) in Railway Electrification Project (REF) Secunderabad to Nagpur from 1.1.1994 to 30.9.1996 for 1004 days along with others. Thereafter, he, along with others continued on voucher payment basis for some time and thereafter on contract basis requesting for regularization and no action has been taken by the department, though they have worked for a considerable period.

5. Respondent did not adduce any evidence on their behalf. Both parties filed written arguments as well as submitted oral arguments.

6. Heard. Perused the pleadings of both the parties.

7. **The following points arise for consideration:-**

I. Whether the Petitioner is eligible to be regularized as temporary status with Respondent employment under the scheme Casual Labourers (Grant of Temporary Status and Regularization) Scheme 1989?

II. Whether order dated 8.6.2010 passed by Respondent on Petitioner's representation is just?

III. To what relief if any, the Petitioner is entitled?

Finding:

8. **Points No.I & II:** Before proceeding to determination on points, it would be relevant to narrate the facts in the back drop of the matter. As pleaded by Petitioner workman Sri V. Venkateswar Rao, he has worked as mazdoor (casual labour) in Railway Electrification Project, Secunderabad to Nagpur from 1.1.1994 to 30.9.1996 for 1004 days along with others. The Petitioner along with others continued on voucher payment basis for some time and thereafter on contract basis. He along with others have been requesting for regularization and to provide the regular work. Still no action has been taken by the Department, though they have worked for a considerable period. It is also pleaded that Petitioner came to know that by proceedings dated 21.11.2000 similarly situated 79 persons have been regularized by giving them temporary status by the Respondents. Since no action was taken by the Respondents he along with others approached Hon'ble Central Administrative Tribunal, Hyderabad Bench at Hyderabad by filing OA No.100/10 and 101/10 and the Hon'ble Tribunal after hearing both the parties disposed of the OAs, on 10.2.2010 with specific direction which reads as follows: "since the applicants in the OA also have similar claims as the applicants in the WP No.12872/08, I consider it appropriate to dispose of this OA by giving a direction to the applicants to file individual representations to the respondents giving full details namely, their addresses, places at which they were engaged, the period for which they were engaged etc., within a period of 4 weeks and on receipt of such representations, the respondents shall examine their applications with reference to the records and the scheme that was in force and pass orders within a period of 3 months from the date of receipt of such representation." The Petitioner in compliance of the above order moved representation dated 3.3.2010 to the Respondent authority and Respondent rejected the representation by passing impugned order dated 8.6.2010. Against this impugned order present industrial dispute petition has been filed by the workman before the Tribunal. It is also submitted that the Petitioner along with others have challenged impugned order dated 8.6.2010 rejecting the representation of Petitioner and filed OA No.1229/2010 and after hearing both the sides Hon'ble Tribunal has directed the applicant to approach the labour court under I.D. Act, 1947. The copy of the order dated 28.2.2011 passed in OA No.1229/2010, **G. Pentaiah and others Vs. Union of India** has been filed wherein Hon'ble Tribunal has observed as below:

"8.Admittedly, the applicants were engaged between 1.1.1994 and 30.9.1996 and they do not come under the scope of the scheme. However, a direction was given by this Tribunal earlier to examine their cases

since the applicants claimed that some juniors who were appointed subsequently had been regularized. I now find that the Respondents have rejected the claim on the ground that relevant records have been weeded out. the matter raised disputed questions of fact viz., whether the applicants were employed as casual labourers for more than 1000 days and whether they are eligible for temporary status, etc. In the absence of records, it is not possible for this Tribunal to adjudicate this matter.

9. *I, therefore, dispose of this application with a direction to the applicants to approach the labour authorities under the Industrial Disputes Act, 1947, if they are so advised, with all the relevant material so that a decision on their eligibility for temporary status or otherwise can be taken by the Respondent authorities. The Learned Counsel for the applicants has no objection to such a direction being given."*

Therefore, in view of the above direction of Hon'ble Central Administrative Tribunal, we proceed to decide to determine the question whether the applicant was engaged as casual mazdoor for more than 1000 days and they are eligible for temporary status.

9. In this regard, the Petitioner has pleaded that he has got engaged as mazdoor(casual labour) in Railway Electrification Project, Secunderabad to Nagpur from 1.1.1994 to 30.9.1996 for 1004 days along with others. It is also submitted that he along with others continued as such on voucher payment basis and later on contract basis.

10. On the other hand the Respondent has filed counter stating therein that there is no engagement of casual labour in BSNL after 10.10.2000 and the casual labour who have been engaged as such before the imposition of ban vide letter No.270/6/84-STN, New Delhi dated 30.3.1985 and letter No.270-6/84-STN dated 22.6.1988 for the project circles and the line dismantling in the Electrification project circles have been continued in BSNL as a matter of policy and the Petitioner having been engaged in Railway Electrification Project after the imposition of ban in project circles vide letter dated 22.6.1988 is not covered by the policy thereof and it is not open for the Petitioner to assert for reengagement or regularization under the said policy. It is submitted that the Petitioner is not covered under the definition of employee with Rule 3 sub clause 8 of BSNL & CDA Rules, 2006. Therefore, it is not open for the claimant to assail the same in any manner for any purpose. It is also submitted that Railway Electrification Project for line dismantling is distinct and different and the said projects is out side jurisdiction of the answering Respondent thereby leaving no scope to reengage any casual labour engaged by the said projects organization after the imposition of the ban and disengaging thereafter and entrustment of the work to a contractor thereby leaving no scope for reengagement and regularization as per the settled law. It is clear from pleadings of the parties that the Petitioner had worked as a mazdoor in Railway Electrification Project of the Respondent on contract basis. The Petitioner has submitted the documents in support of his allegation which are: Ex.W1 is photocopy of order dated 8.6.2010 which the Respondent authority has rejected the representation of the Petitioner by assigning reasons therein. Ex.W2 is a copy of representation dated 3.3.2010. The last para of the representation reveals that Petitioner has prayed for relief from Respondent to provide him employment, whereas in petition he has sought relief of regularization in the Respondent employment. Document Ex.W3 and W4 are photocopies of the orders of Hon'ble Central Administrative Tribunal passed in OA 1229/2010 and 100/2010. Other document Ex.W5 is photocopy of order passed in OA No.101/2010 dated 10.2.2010. The documents Ex.W6 to W9 are photocopies of the proceedings which were supplied by the Respondent to the Petitioner which contains list of casual labour. Ex.W10 is photocopy of letter regarding temporary status and Ex.W11 is the attendance sheets of the workman Petitioner which has been signed by Divisional Engineer, Telecom, Secunderabad which reveals that the Petitioner has worked as mazdoor from 1.1.1994 to 30.9.1996 in Railway Electrification Project.

11. **It would be relevant to reproduce the provision of Sec.2(oo)(bb) of I.D. Act, 1947 which provide that,**

" (oo) "retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action but does not include:-

(bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; "

12. **The Hon'ble Apex Court in the case of S.M. Nilajkar and ors. Vs. Telecom, District Manager has held: " the termination of the service of workman engaged in a scheme or project amounts to retrenchment within the meaning of sub-clause (bb) subject to the following provision being satisfied:**

- i) *That the workman was employed in a project or scheme of temporary duration;*
- ii) *The employment was on contract and not as a daily wager simplicitor, which provided inter alia that the employment shall come to an end on the expiry of the scheme or project; and*
- iii) *The employment came to an end simultaneously with the termination of the scheme or project and consistently with the terms of the contract.*

- iv) *The workman ought to have been apprised or made aware of the above said terms by the employer at the commencement of employment.*

13. Since the Petitioner has alleged that he has worked as mazdoor from 1.1.1994 to 30.9.1996 in the Railway Electrification Project as contract labour. It goes to show that Petitioner has worked in the Respondent employment on a project which is open for a limited time and after completion of the project the Petitioner cannot claim any employment or regularization in the service of the Respondent. As far as the contention of the Petitioner is concerned that he should be regularized as other casual workers regularized under the scheme, it is settled law that any contract workman has no right to seek regularization of employment from employer, since it is a matter of discretion of the employer. Even otherwise, if a fresh contract contemplated to secure employee appointment with higher qualification or seek a fresh job on contractual employment having more skills, the employer will always have an authority to decide what is best for improving its functioning and which can be depend on work requirements.

14. Petitioner contended that Respondent has mentioned that in the impugned order the record pertaining to Railway Electrification Project are not available for due verification of the information furnished by the Petitioner. As they have weeded out as per retention schedule. The letter of appointment and payment thereof is requisite record to verify the engagement from 1.1.1994 to 30.9.1996. It is the duty of the authority to protect official files and record, it would be worthy to mention here that Petitioner had worked as Mazdoor in Respondent project for the period 1994-1996 as contract labour and he raised present industrial dispute by filing the petition u/s 2A(2) of the I.D. Act, 1947 in July, 2012. Long span of time more than 15 years have elapsed. Respondent in his counter has stated that no record as such are maintained after the expiry of three years relating to the muster roll as per the retention schedule. Since there was gross laches of inordinate delay on the part of Petitioner in raising present industrial dispute. Respondent is not supposed to maintain record of contractual labour beyond retention schedule. Therefore, in the case of non-production of the record by the Respondent, no adverse inference can be drawn against him in this case.

15. Respondent submitted that there is no engagement of casual labour in BSNL after 1.10.2000 and the casual labour who have been engaged before the imposition of the ban vide letter No.270/6/84-STN dated 30.3.1985 and letter No.270-6/84-STN dated 22.6.1988 for the project circles and the line dismantling in the Electrification project circles have been continued in BSNL as a matter of policy and the Petitioner having been engaged in Railway Electrification Project after the imposition of ban in project circles vide letter dated 22.6.1988 is not covered by the policy thereof and it is not open for the Petitioner to assert for reengagement or for regularization under the said policy. The Respondent has submitted the copy of letter No.270/6/84-STN dated 30.3.1985 wherein it is mentioned that the Telecom Department has directed to stop the recruitment or employment of casual labour of any kind, any type of work. Further, copy of letter No.270-6/84-STN dated 22.6.1988 which is regarding casual labour recruitment wherein it is mentioned (para 2) that, there shall be no recruitment of casual labour even for specific period and it was directed to Respondent Department to engage from neighbouring divisions, employed for the project or electrification work. Further, the copy of the letter of DG Telecom, New Delhi dated 7.11.1989 has been filed wherein it is mentioned that the casual labourers could be engaged after 30.3.1985 in projects and Electrification Circles only for specific works and on completion of the work the casual labourers so engaged were required to be retrenched. It is also mentioned that as per the direction in letter dated 22.6.1988 fresh recruitment of casual labourers even for specific works for specific periods in Projects and Electrification Circles also should not be resorted to. Therefore, in view of the ban on engagement of casual labourers the claim of the Petitioner is not maintainable. Since the Petitioner was engaged through contractor in the Railway Electrification Project which was meant for a specific period and after completion of the project work his employment is terminated and he is not eligible to claim for regularization in view of above letters and his status as contract labour.

16. Now the question arises whether there existed employee and employer relationship between the claimant and Respondent. Petitioner has admitted the fact that he was doing the work as a contract labourer in the Respondent Department. Further, to prove the employment there has to be a strict evidence to show some nexus between the claimant and the Respondent. This can be any kind such as appointment letter, monthly payment slip, deduction of Provident Fund, payment of any dues, which can show that he was in the employment of the Respondent. **In the case of Automobile Association of Upper India vs. Presiding Officer Labour Court-II, 2006 LLR page 851 wherein the Hon'ble Delhi High Court held, “Engagement and appointment in service can be established directly by the existence and production of appointment letter, a written agreement or by circumstantial evidence of incidental and ancillary records which would be in the nature of attendance register, salary registers, leave records, deposit of Provident Fund contribution and employees state insurance contribution etc.. The same can be produced and proved by the workers or he can call upon and caused the same to be produced and proved by calling for witnesses who are required to produce and prove these records.”**

17. But in the present case the claimant Petitioner has not produced any single piece of evidence showing that he was issued appointment letter by the Respondent. In fact, he has not disclosed date of actual joining of the employment as casual labour of the Respondent. Therefore, the contention of the Petitioner that he was casual

labourer is not found to be proved by his evidence. Hence, he was not covered under Regularization Scheme rather he was contract labour as he has admitted in petition.

Thus, Points No.I & II are answered accordingly.

18. **Point No.III:** In view of the above discussion, it is clear that the Petitioner was not a casual labourer, rather had worked as contract labour for the period from 1994 to 1996. Therefore, Petitioner is not eligible to be regularized as a casual labour in the Respondent employment. The impugned order dated 8.6.2010 passed by Respondent needs no interference and petition is liable to be dismissed. In view of the finding given in Points No.I & II, the Petitioner is not entitled to any relief as prayed for regularization or reengagement. However, the Respondent has submitted that this Tribunal has disposed of LC No.8/2012 vide its order dated 29.2.2020 and granted relief of compensation to the Petitioner. In view of the foregoing discussion, it is clear that the Petitioner was engaged as a casual labour for the period from 1994 to 1996 and number of days he worked has been verified by the Divisional Engineer as the Petitioner has filed the documentary evidence in support of his claim.

19. **In this regard Hon'ble Apex Court in the case of Hari Nandan Prasad Vs Employer I/R to management of FCI in Civil Appeal No.2417-2418 of 2014 dated 17.02.2014 held and laid down that :-**

"in the case of BSNL VS. Bhurumal 2013 (15) SCALE 131 which has taken note of the earlier case law relevant to the issue. Following passage from the said judgment would reflect the earlier decisions of this Court on the question of reinstatement: "The learned counsel for the appellant referred to two judgments wherein this Court granted compensation instead of reinstatement. In the case of BSNL Vs. Man Singh (2012) 1 SCC 558, this Court has held that when the termination is set aside because of violation of Section 25-F of the Industrial Disputes Act, it is not necessary that relief of reinstatement be also given as a matter of right.

However, in recent past, there has been a shift in the legal position and in a long line of cases, this Court has consistently taken the view that relief by way of reinstatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee is in contravention of the prescribed procedure. Compensation instead of reinstatement has been held to meet the ends of justice."

Therefore, in view of the above, Petitioner is liable for getting the compensation of Rs.50,000/.

Thus, Point No.III is answered accordingly.

ORDER

In view of the findings given above, it is hereby ordered: The petition of the Petitioner is allowed in part. The Respondents are directed to pay a sum of Rs.50000/- (Fifty thousand rupees) to the Petitioner towards compensation within four months from the receipt of this order, failing which the Petitioner is at liberty to take appropriate steps according to Law.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 26th day of April, 2023.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the

Witnesses examined for the

Petitioner

Respondent

WW1: Sri Vanigalla Venkateswar Rao MW1: Nil

Documents marked for the Petitioner

Ex.W1: Photostat copy of the Order dt 8.6.2010

Ex.W2: Photostat copy of the Representation of WW1 dt.3.3.2010

Ex.W3: Photostat copy of order passed in OA. No. 1229/2011

Ex.W4: Photostat copy of order passed in OA. No. 100/2010

Ex.W5: Photostat copy of order passed in CA. No. 101/2010

Ex.W6: Photostat copy of proceeding of respondent dt 9-5-2007

Ex.W7: Photostat copy of proceeding of Director, BSNL Railway Electrification Project Secunderabad dt. 12-9-2002

Ex.W8: Photostat copy of list of candidates issued by Div. Engineer, Secunderabad dt. 11-9-2002

Ex.W9: Photostat copy of proceeding Dt. 13-11-2007 providing information under RTI Act

Ex.W10: Photostat copy of letter dt.21-11-2000 with regard to temporary status

Ex.W11:Photostat copy of Days Book signed by authority

Ex.W12:Photostat copy of Identity card of petitioner

Ex.W13:Photostat copy of certificate dated 9.6.2014

Documents marked for the Respondent

NIL

नई दिल्ली, 26 सितम्बर, 2023

का.आ. 1629.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एयर इंडिया लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय**, नं. 1. मुंबई के पंचाट (संदर्भ संख्या सीजीआईटी-1/16/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को **18/09/2023** को प्राप्त हुआ था।

[सं. एल-20025/13/2003-आई. आर. (सी.एम-1)]

मणिकंदन एन., उप निदेशक

New Delhi, the 26th September, 2023

S.O. 1629.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Ref. REFERENCE No.CGIT- 1/16/2008**) of the **Central Government Industrial Tribunal-cum-Labour Court, No.1, Mumbai** as shown in the Annexure, in the industrial dispute between the Management of **Air India Limited** and their workmen, received by the Central Government on **18/09/2023**.

[No. L-20025/13/2003 – IR (CM-I)]

MANIKANDAN N., Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1 MUMBAI

Present

JUSTICE K.D.BHUTIA

Presiding Officer

REFERENCE NO.CGIT-1/16 of 2008

Parties: Employers in relation to the management of
Air India Ltd.
And
Their workmen

Appearances:

For the first party Management : Mr.Lancy D' Souza, Adv.
For the second party workmen : Absent.

Dated the 23rd day of August, 2023

AWARD

Management is present through its learned counsel Mr.Lancy D'Souza.

Today has been fixed for evidence from the side of the management but record shows the union which has espoused the dispute has not been taking any step since 03.12.2014.

Therefore, a presumption can be drawn that the union which has espoused the present dispute is no longer interested to proceed with the dispute or pursue the dispute. The record shows the union had filed its claim statement and also evidence of one Mr.Ashok Dhotre on 10.4.2013 but it has failed to produce the said witness Ashok Dhotre for his further examination and cross examination.

Be that as it may, the Central Government, Min. Of Labour by order No. L-20025/13/2003-IR (CM-I) dated 11.8.2008 in exercise of power conferred under clause 10(1)(d) and (2A) has been pleased to refer the following dispute to this Tribunal for adjudication.

“(i) Whether the action of the Management of Indian Airlines Ltd. (now NACIL), Mumbai in not regularizing the services of 153 workers (as per annexure) working on regular basis for a number of years is justified and legal?

(ii) To what reliefs are the concerned workmen entitled?”

Apart from the statement of claim there is nothing in the record to prove the statement of claim. There is neither oral or documentary evidence adduced by the union to substantiate the claim made in its written claim statement. Therefore, in absence of corroborative oral or documentary evidence, this Tribunal is unable to adjudicate the dispute under reference merely on the basis of uncorroborated pleadings of the parties.

In view of the above, no dispute award is passed.

Accordingly, CGIT-16 of 2008 is disposed of.

Justice K.D.BHUTIA, Presiding Officer

नई दिल्ली, 29 सितम्बर, 2023

का.आ. 1630.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 97/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21/09/2023 को प्राप्त हुआ था।

[सं. एल-22012/490/2004-आई. आर. (सी.एम-II)]

मणिकंदन एन., उप निदेशक

New Delhi, the 29th September, 2023

S.O. 1630.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 97/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the Management of E.C.L. and their workmen, received by the Central Government on 21/09/2023.

[No. L-22012/490/2004 – IR (CM-II)]

MANIKANDAN N., Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL

PRESENT: Shri Ananda Kumar Mukherjee,
Presiding Officer,
C.G.I.T.-cum-L.C., Asansol.

REFERENCE CASE NO. 97 OF 2005

PARTIES: Basudev Bhandary

Vs.
Management of Sangramgarh Colliery of ECL

REPRESENTATIVES:

For the Union/Workman: Mr. Uday Giri, Adv.

For the Management: Mr. P. K. Goswami, Adv.

INDUSTRY: Coal.
STATE: West Bengal.
Dated: 31.07.2023

AWARD

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order **No. L-22012/490/2004-IR(CM-II)** dated 29.08.2005 has been pleased to refer the following dispute between the employer, that is the Management of Sangramgarh Colliery of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Sangramgarh Colliery of M/s. Eastern Coalfields Limited in dismissing Sh. Basudev Bhandari, Electric Helper from services on 29.09.2002 is legal and justified? If not, to what relief the workman is entitled?”

1. On receiving Order **No. L-22012/490/2004-IR(CM-II)** dated 29.08.2005 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 97 of 2005** was registered on 09.09.2005 and an order was passed issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

2. The dismissed workman on receiving Notice appeared through Mr. Sanjib Mukherjee and Mr. Ashis Halder, his advocates and filed his written statement on 14.07.2015. The management appeared through Mr. P. K. Goswami, advocate and filed their written statement in respect of the dismissal of Basudev Bhandary, who was posted as a permanent employee at Sangramgarh Colliery of Eastern Coalfields Limited (hereinafter referred to as ECL). It is the case of the management that Basudev Bhandary was a chronic absentee and due to his unauthorized absence for a long period the management issued Charge Sheet against him. The charged employee submitted his reply that due to his wife's illness he could not attend his duty and being the only working member of the family, no intimation could be given to his office. The management was not satisfied with his reply and initiated a departmental enquiry against the charged employee and opportunity was given to him to defend his case. The workman participated in the enquiry proceeding and prayed for apology. The departmental enquiry was concluded by finding the workman guilty of the charge. It is further stated in the written statement that in the past Basudev Bhandary attended office only for ninety (90) days in the year 1999 for which one increment was stopped. In the year 2000 he attended duty only for one hundred and twenty (120) days for which two increments were stopped, in the year 2001 he attended duty only for forty-two (42) days for which three increments were stopped, and in the year 2002 three increments of the workman was stopped for his absence. Thereafter he remained absent from 12.06.2002 till the date of issuance of Charge Sheet on 15.07.2002 without any prior intimation. For such absence from duty the management could not show leniency to the workman and recommended his dismissal. It is the further case of the management is that the workman was earning his livelihood from other source and he does not deserve any relief. Ultimately the General Manager, Salanpur Area of ECL after considering the documents on record and the Enquiry Report issued a letter of dismissal to the workman.

3. The management examined Mr. Rakesh Kumar Waiker as Management witness – 1 and produced several documents which have been marked as Exhibit MW-I to MW-VII :

- (i) A copy of the Charge Sheet dated 15.07.2002 is admitted in evidence as Exhibit MW-I.
- (ii) A copy of the reply submitted by the workman on 04.11.2002 as Exhibit MW-II.
- (iii) A copy of the Notice of Enquiry issued by the Enquiry Officer on 26.10.2008 as Exhibit MW-III.
- (iv) A copy of the Enquiry Proceeding of the Enquiry Officer as Exhibit MW-IV.
- (v) A copy of the Enquiry Report of the Enquiry Officer as Exhibit MW-V.
- (vi) A copy of the Note Sheet of management of ECL as Exhibit MW-VI.
- (vii) A copy of the Letter of Dismissal dated 13.02.2003 issued by the General Manager, Salanpur Area, of ECL as Exhibit MW-VII.

At the time of evidence of management witness after notice none appeared for Basudev Bhandary to cross-examine the witness. Subsequently after appearance Mr. Uday Giri, learned advocate for Basudev Bhandary, no step was taken by him for the purpose of cross-examine the management witness who had been earlier discharged.

4. Workman filed written statement on 14.07.2015. It is contended that the management dismissed him from service in a predetermined manner and the Departmental Enquiry held against him was only an eye wash. It is

claimed that the charges levelled against him are incorrect and that he received a copy of Charge Sheet which did not disclose any wrong done by him. He informed the management that his absence from duty was not due his fault but he remained absent as his wife was seriously ill and except him there is no other family member in the family to look after her. It is urged that the punishment imposed by order of dismissal passed against him is disproportionate to the charges against him and no Second Show Cause Notice was issued to him before imposing the punishment. The workman prayed for setting aside the order of dismissal and restore him to his office with full back wages.

5. Basudev Bhandary, the workman filed affidavit-in-chief wherein he has stated that management issued Charge Sheet No. SAN/C-6/-1796 dated 15.07.2002 and he was not allowed to join his duty. The management dismissed him from service of the company vide letter no. C-6/36/P-2908 dated 13.02.2003 without giving him any opportunity to defend himself against the charge. According to the workman the Enquiry Officer was biased and in violation of the principles of natural justice conducted the inquiry in an unfair manner. The workman witness stated that his financial condition is miserable and is without any job for which he should be reinstated in the service of the company and allow him to resume his duty. The witness in cross-examination by the company stated that he absented from duty five (5) times on previous occasions and received minor punishments. He admitted that each time he assured the management that he will not absent from duty in future. The workman further denied that he has received the Charge Sheet and took part in the Enquiry Proceeding.

6. In the backdrop of the above facts and contentions of the parties, stage is set for consideration as to whether the management of ECL is justified in dismissing Basudev Bhandary, Electric Helper and if not, to what relief the workman is entitled?

7. The case has a checkered career. The management of ECL appears to have been consistent with their representation but the workman remained unrepresented for a long time. After ten years he filed his written statement in the year 2015. Several advocates have appeared on behalf of the workman from time to time and lastly Mr. Uday Giri, learned advocate appeared on 17.02.2023 after several Notice were issued to the workman and the case was argued by the learned advocate of both parties on 08.05.2023.

8. It is an undisputed fact that the workman was a habitual absentee and the workman witness in his cross-examination admitted that due to his absence from duty on earlier occasion he had received minor punishments. He also deposed that finally he was dismissed for his absence from duty for two months. The Charge Sheet dated 15.07.2002 which was sent to Basudev Bhandary under registered post at his village address was received by him. Copy of the Charge Sheet was produced by the management as Exhibit MW-I. The charge levelled against him is that he is a habitual absentee amounting to major misconduct under Clause 26.23 and 26.29 of the Certified Standing Order. In response to the Charge Sheet the workman submitted his reply on 04.11.2002 (Exhibit MW-II). The concerned workman admitted receipt of the Charge Sheet and stated therein that he could not attend duty on 12.06.2002 due to his wife's serious illness and he is the only family and could not informed his office from his native place. The management of the employer company issued Notice of Enquiry to the workman on 26.10.2002 informing him that the inquiry shall take place on 13.11.2002. The Enquiry Proceeding was initiated by Mr. Anjan Banerjee, Senior Personnel Officer who held the inquiry in presence of Basudev Bhandary, the charged workman, Mr. Goutam Sarkar, Clerk and Mr. Jagai Chandra Mondal, Clerk. In the Enquiry Proceeding it is stated that the delinquent accepted and confirmed the statements made by him in the reply submitted by him on 04.11.2002. The charge was read over and explained to him in Bengali. The delinquent was given opportunity to cross-examination the management witness and examine his own witnesses and also to take assistance of any co-worker, which the workman declined. The workman accepted the charge and prayed for pardon. In the Enquiry Proceeding it is stated since the delinquent has accepted the charge, the proceeding was concluded by recording the statement of the delinquent where he admitted that he could not attend his duty from 12.06.2002 due to serious illness of his wife. On a close scrutiny of the Enquiry Proceeding report I find that no management representative was examined to establish the charge levelled against the delinquent. In the Enquiry Report (Exhibit MW-V), I find that the Enquiry Officer on perusal of the evidence observed that the workman was a seasoned and a habitual absentee for the preceding three years and from the facts and circumstances it was clear that the workman left his job and place of work, having no interest in continuing his service. The Enquiry Officer went ahead to hold that the charge of unauthorized and habitual absence from duty under Clause 26.23 and 26.29 of the Certified Standing Order of the company have been proved beyond any doubt. No specific punishment was proposed by the Enquiry Officer in his report. The Manager of Sangramgarh Colliery of ECL in his Note Sheet dated 23.11.2002 (Exhibit MW-VI) proposed that Basudev Bhandary, Electrical Helper, U.M. No. 179225 of Sangramgarh Colliery was charge sheeted for unauthorized absence from duty from 12.06.2002 to 04.11.2002 and on perusal of the report it was found that he was a habitual absentee. The Manager further observed that the finding of Enquiry Report was accepted in its entirety and there was no extenuating circumstance in favour of the workman. He was liable for the punishment and it was proposed that he may be demoted from Category – III SLU (1993) to Category – I.

9. A Letter of Dismissal dated 13.02.2003 (Exhibit MW-VII) was issued by the General Manager of Salanpur Area of ECL addressed to the charged employee. It has been stated in the letter, communicating his decision that on going through the Enquiry Report submitted by the Enquiry Officer where the charge has been proved, the charged employee was being dismissed from service with immediate effect and was directed to collect legal dues.

10. Learned advocate for the dismissed workman argued that the charge cited against the workman was not proved by examining the management witness. It is contended that the Enquiry Officer and the Disciplinary Authority are two different persons. Therefore, before acting on the basis of an unfounded Enquiry Report, the charged employee ought to have been furnished with a copy of Inquiry Proceeding for giving him an opportunity to defend himself. It is contended that in this case no Second Show Cause Notice was issued by the management. Therefore, the order of dismissal passed by the General Manager is illegal and cannot be sustained under the law.

11. Learned advocate for the Management argued that the workman is a habitual absentee and he has admitted his guilt therefore the charge levelled against him under Clause 26.23 and 26.29 of the Certified Standing Order stands proved against the workman. In such view of the matter the management has acted within the purview of law by dismissing Basudev Bhandary.

12. I have carefully considered the evidence on record and find that though the workman participated in the Enquiry Proceeding, the Enquiry Officer did not examine any Management witness to substantiate the charge. The charged employee has been examined as the sole witness to depose and he admitted the charges. There is no ambiguity that the charge of unauthorized absence from duty for more than ten days has been established.

13. Non-supply of Enquiry Proceeding report to the delinquent and non-issuance of the Second Show Cause Notice is conspicuous by their absence. It is therefore evident that the Disciplinary Authority has dismissed the charged employee without giving him any opportunity to put forth his explanation against the report of the Enquiry Officer.

14. The settled position of law on this point has been laid down in the case of **Union of India and Others vs Mohd. Ramzan Khan [AIR (1991) SC 471]**, where the Hon'ble Supreme Court of India held as follows:

“When the Inquiry Officer is not the Disciplinary Authority, the delinquent employee has a right to receive a copy of the Inquiry Officer's report before the Disciplinary Authority arrives at its conclusion with regard to the charges levelled against him. A denial of the inquiry officer's report before the Disciplinary Authority takes its decision on the charges, is denial of opportunity to the employee to prove his innocence and is a breach of principles of natural justice.”

In this respect it is pertinent to place reliance upon a decision of the Hon'ble Supreme Court in the case of **Managing Director, ECIL, Hyderabad vs. B. Karunakaran [1993 (3) SLR 532 (SC)]**, where it was held that :

“It is evident where the Inquiry Officer is other than the Disciplinary Authority, the disciplinary proceeding break into two stages. The first stage when the Disciplinary Authority arrives at its conclusion on the basis of evidence, Inquiry Officer's report and the delinquent employee's reply to it. The second stage begins when the Disciplinary Authority decides to impose penalty on the basis of its conclusion. If the Disciplinary Authority decides to drop the proceeding, the second stage is not even reached. The employee's right to receive the report is thus, a part of the reasonable opportunity of defending himself in the first stage of inquiry. If the right is denied to him, he is in effect denied the right to prove his innocence in the disciplinary proceeding.”

15. Giving effect to the above guiding principles in the case of **Union of India and Others (Supra.) and Managing Director, ECIL, Hyderabad (Supra.)**, Coal India Limited of which Eastern Coalfields Limited is a subsidiary, issued a Circular bearing No. CIL C-5A(VI)/50774/28 dated 12.05.1994 adopting the following policy decisions :

- “(i) *On receipt of the inquiry report and before passing the final order, the Disciplinary Authority shall furnish a copy of the Enquiry Report to the delinquent employee provided there is no scope of disagreeing with the findings of the Inquiry Officer by the Disciplinary Authority.*
- (ii) *In case of the Disciplinary Authority disagrees with the findings of the Inquiry Officer, he may record the reasons and draw the conclusion based on the evidence adduced during the course of the enquiry and communicate the same to the delinquent-employee along with the copy of the enquiry report.*
- (iii) *After seventy two (72) hours of the receipt of the inquiry report by the delinquent employee, the Disciplinary Authority may pass orders provided no representation has been received from the delinquent employee on the inquiry report.*
- (iv) *in case a representation has been submitted by the delinquent employee the same should be taken into consideration by the Disciplinary Authority while passing the final orders in the case. While communicating the final orders it must be mentioned that his representation was taken into consideration by the Disciplinary Authority.”*

In the instant case the management of ECL has not complied the various provisions of the Circular dated 12.05.1994 and no opportunity was given to the delinquent employee to respond to the findings of the Enquiry Officer. Furthermore, from the Letter of Dismissal dated 13.02.2003 (Exhibit MW-VII), I find that no representation

of the delinquent was taken into consideration by the Disciplinary Authority which is a clear violation of the principles laid down by the Hon'ble Supreme Court of India in the aforesaid judgements on this point.

16. Under the aforesaid facts and circumstances and the settled position of law discussed above, I hold that the order of dismissal passed by the General Manager, Salanpur Area of ECL in respect of Basudev Bhandary is bad in law and the same is set aside. the management of ECL is directed to supply a copy of Enquiry Proceeding and Enquiry Report to the delinquent within one month from the Notification of the Award, giving him opportunity to submit his representation, if any, and the Disciplinary Authority shall pass a fresh order after taking into consideration all material particulars including Enquiry Report, Findings, Second Show Cause Notice and the representation of the delinquent workman, if any, and communicate the same to him within a fortnight thereafter. The Industrial Dispute is accordingly disposed in favour of the workman. However, it is made clear that he is not entitled to any back wages.

Hence,

ORDERED

that an Award be passed in favour of the workman. The order of dismissal dated 13.02.2003 passed by the General Manager, Salanpur Area of ECL is bad in law and the same is set aside. the Disciplinary Authority of Salanpur Area of ECL is directed to furnish a copy of Enquiry Proceeding, Enquiry Report along with Second Show Cause Notice to the delinquent employee, providing him a scope of disagreeing with the findings of the Enquiry Officer within a fortnight after service of Notice. The Disciplinary Authority shall pass a fresh order taking into consideration all relevant materials and representation of the delinquent workman. Let an award be drawn up in accordance with my above observation. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 29 सितम्बर, 2023

का. आ. 1631.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजको और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 23/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21/09/2023 को प्राप्त हुआ था।

[सं. एल-22012/52/2010-आई. आर. (सी.एम-II)]

मणिकंदन एन., उप निदेशक

New Delhi, the 29th September, 2023

S.O. 1631.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 23/2010) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the Management of E.C.L. and their workmen, received by the Central Government on 21/09/2023.

[No. L-22012/52/2010 – IR (CM-II)]

MANIKANDAN N., Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL

PRESENT: Shri Ananda Kumar Mukherjee,
Presiding Officer,
C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 23 OF 2010

PARTIES: Niren Bouri

Vs.

Management of Kalipahari Colliery of ECL

REPRESENTATIVES:

For the Union/Workman: Mr. S. K. Pandey, General Secretary, Koyala Mazdoor Congress.

For the Management: Mr. P. K. Das, learned advocate.

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 28.06.2023

AWARD

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order **No. L-22012/52/2010-IR(CM-II)** dated 07.12.2010 has been pleased to refer the following dispute between the employer, that is the Management of Kalipahari Colliery under Sripur Area of Mines of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Kalipahari Colliery under Sripur Area of M/s. ECL, in denying duty to Sri Niren Bouri, Banksman, UM No. 280800 since 28.02.2001 without assigning any reasons and terminating the service by issuing superannuation notice on 02.07.2009 is legal and justified? to what relief the workman concerned entitled?”

1. On receiving Order **No. L-22012/52/2010-IR(CM-II)** dated 07.12.2010 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 23 of 2010** was registered on 09.12.2011 and an order was passed issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

2. Mr. P. K. Das, learned advocate for Eastern Coalfields Limited is present. Case is fixed up today for appearance of Smt. Sundari Bouri, wife of Late Niren Bouri and for taking steps for substitution of legal heirs of Late Niren Bouri. On repeated calls at 1:30 PM, none appears for Smt. Sundari Bouri. It appears that notice was issued to Sundari Bouri on 12.04.2023 under registered post but she has not taken any steps.

3. The workman submitted written statement on 26.06.2012 through Mr. S. K. Pandey, Union representative. On death of Niren Bouri, his widow Smt. Sundari Bouri was substituted by order dated 01.08.2016. However, her two daughters namely Saraswati Bouri and Sonali Bouri were not substituted. Smt. Sundari Bouri filed an affidavit-in-chief and she was also cross-examined. No written statement was filed by the Management.

4. Several opportunities have been given to dependents of deceased to appear and proceed with this case but no effective steps have been taken. In view of such facts and circumstances, I am of considered view that the legal heirs have no case to pursue and the Industrial Dispute is disposed of in form of a **No Dispute Award**.

Hence,

ORDERED

that a **No Dispute Award** be drawn up in respect of the above Reference. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 3 अक्टूबर, 2023

का. आ. 1632.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, लखनऊ के पंचाट (पहचान संख्या 23/2019) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/09/2023 को प्राप्त हुआ था।

[सं. एल-22011/10/2017-आई. आर. (सी.एम-II)]

मणिकंदन एन., उप निदेशक

New Delhi, the 3rd October, 2023

S.O. 1632.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**ID. No. 23/2019**) of the **Central Government Industrial Tribunal-cum-Labour Court, Lucknow** as shown in the Annexure, in the industrial dispute between the Management of **Food Corporation of India** and their workmen, received by the Central Government on 13/09/2023.

[No. L-22011/10/2017 – IR (CM-II)]

MANIKANDAN N., Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 23/2019

Ref. No. L-22011/10/2017-IR CM-II) dated 12.11.2018

BETWEEN

Hazisamittulah, Joint Secretary 12/58 Sahid Nagar, Near Lucknow
Montesari Inter College(old fort) Lucknow - 122601

AND

1. The Area Manager, Food Corporation of India, 3A Muir Road,
Katra, ALLAHABAD - 211001
2. The General Manager, Regional Office, FCI, TC-3, B Vibhuti Khand,
Gomti Nagar, Lucknow - 226010

AWARD

By order No. L-22011/10/2017-IR CM-II) dated 12.11.2018 the present industrial dispute has been referred for adjudication to this Tribunal in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 the Industrial Disputes Act, 1947 (14 of 1947) by the Central Government, with following schedule:

“Whether the action of the management of Food Corporation of India regarding Gang Merger of workers of FCI Depot Naini, Allahabad is legal & justified, if not to what relief the concerned workman is entitled for?”

Accordingly, an industrial dispute No. 23/2019 has been registered on 16.08.2019

From the perusal of record, the position which emerge out that till date the claimant/workman has not filed any statement of claim.

Moreover, as a matter of fact and record, neither workman nor its authorized representative has turned up before this Tribunal nor has filed any statement of claim in spite of repeated notices.

Findings & Conclusion:

Taking into consideration the fact that as till date no statement of claim has been filed by the claimant in order to establish his claim as per the reference dated 12.11.2018.

So in view of the said facts, as well as the law laid by the Hon'ble High Court in the case of **V. K. Raj Industries v. Labour Court (I) and others 1981 (29) FLR 194** as under:

“It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief.”

In the case of *M/s Uptron Powertronics Employees' Union, Ghaziabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others 2008 (118) FLR 1164* Hon'ble Allahabad High Court has held as under:

"The law has been settled by the Apex Court in case of Shanker Chakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."

And by the Hon'ble Allahabad High Court in the case of *District Administrative Committee, U.P. P.A.C.C.S.C. Services v. Secretary-cum-G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519*; wherein it has been held as under:

"The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed."

As the workman has not filed any statement of claim/oral/documentary evidence, so the present case is liable to be dismissed.

For the foregoing reasons, the case is dismissed and; and the workman is not entitled for any relief.

Award as above.

Lucknow.

Justice ANIL KUMAR, Presiding Officer

31st August, 2023

नई दिल्ली, 4 अक्तूबर, 2023

का. आ. 1633.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी.सी.एल.के प्रबंधन के संबंध नियोजको और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण— सह - श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 07/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25/09/2023 को प्राप्त हुआ था।

[सं. एल-20012/409/99-आईआर(सी-I)]

मणिकंदन एन., उप निदेशक

New Delhi, the 4th October, 2023

S.O. 1633.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 07/2000) of the **Central Government Industrial Tribunal-cum-Labour Court NO. 2, Dhanbad** as shown in the Annexure, in the industrial dispute between the Management of **B.C.C.L.** and their workmen, received by the Central Government on **25/09/2023**.

[No. L-20012/409/99-IR(C-I)]

MANIKANDAN. N., Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD

PRESENT

Dr.S.K.Thakur,

Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D.Act., 1947.

REFERENCE NO. 07 OF 2000.

PARTIES: : The Joint General Secretary,
Jharkhand Janta Mazdoor Union,
Qr.No. 1-A, 373, PO: Koyla Nagar,
Dhanbad-826001
(Jharkhand).

Vs.

The General Manager,
Barora Area I of M/s BCCL
PO: Nawagarh, Distt: Dhanbad 826001

Order No. L-20012/409/99 (C-I) dt.21.01.2000

APPEARANCES:

On behalf of the workman/Union : None .

On behalf of the Management : Mr.D.K.Verma. Ld. Advocate

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 28th July, 2023

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act.,1947 has referred the following dispute to this Tribunal for adjudication vide their **Order No. L-20012/409/99 (C-I) dt.21.01.2000.**

SCHEDULE

“Whether the action of the Management of Damodha Colliery of M/s BCCL in dismissing Sri Saoj Manjhi ,M/Loader from the services on absentism is fair and justified? ,If not, to what relief the concerned workman is entitled to?”

2. The workmanside filed written statement of claim on 29.08.2003 after initiating of proceeding for adjudication on 31.01.2000.which was received by the Management side on 01.04.2004.Subsequently the matter was fixed for hearing on several dates for proceeding with adjudication. The Management side represented with filing of documents and producing witness for examination .

3. But the workmanside never appeared/represented except filing claim on 21.08.2003.

4. Since there is no any ground to continue with the proceeding in the matter without any substance particularly when the workman did not come forward to contest the case on merit .Accordingly it is decided to dispose of the Reference with passing Award with granting no relief to the workman concerned being sheer disinterested to contest the case . Accordingly a “No Claim Award” is passed and the Reference thus stands disposed of.

5. Let this Award be sent t the appropriate Government as required under Sec. 17 of the Industrial Dispute Act, 1947 for publication.

Dr. S. K.THAKUR, Presiding Officer

नई दिल्ली, 4 अक्टूबर, 2023

का. आ. 1634.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में,केन्द्रीय सरकार बी.सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण- सह - श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 153/1999)** को प्रकाशित करती है, जो केन्द्रीय सरकार को **25/09/2023** को प्राप्त हुआ था।

[सं. एल-20012/337/98-आईआर(सी -I)]

मणिकंदन.एन., उप निदेशक

New Delhi, the 4th October, 2023

S.O. 1634.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Ref. No. 153/1999**) of the **Central Government Industrial Tribunal-cum-Labour Court NO. 2, Dhanbad** as shown in the Annexure, in the industrial dispute between the Management of **B.C.C.L.** and their workmen, received by the Central Government on **25/09/2023.**

[No. L-20012/337/98-IR(C-I)]

MANIKANDAN. N., Dy. Director

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD****PRESENT**

Dr.S.K.Thakur

Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D.Act.,1947.

REFERENCE NO 153 OF 1999.

PARTIES : The Branch Secretary.
 Bihar Janta Khan Mazdoor Sangh,
 Sijua Area ,Sendra Bansjopra Colliery,
 PO:Bansjopra,Dhanbad
 Vs.
 General Manager,
 Sijua Area of M/s BCCL
 P.O.Sijua, Dhanbad,

Order No.L-20012/337/98-IR(C-I) dt.22.02.1999**APPEARANCES :**

On behalf of the workman/Union : None
 On behalf of the Management : Mr.D.K.Verma, ,Ld. Advocate

State : JHARKHAND Industry : Coal

Dated, Dhanbad, 28th August ,2023**AWARD**

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act.,1947 has referred the following dispute to this Tribunal for adjudication vide their Order No.L-20012/337/98-IR(C-I) dt.22.02.1999

SCHEDULE

“Whether the action of the Mudidih Colliery of M/s B.C.C.L. in dismissing Shri Parmeshwar Mahato, Fitter Helper with effect from 15.02.1992 from service is justified If not what relief is the workman is entitled ?”

2) As per statement of claim filed by the workman Shri Parmeshwar Mahato an permanent employee of Mudidih Colliery of M/s BCCL in Cat.II of the Time rated employee proceed on authorized leave duly sanctioned by the Competent Authority. On expiry of leave he could not be able to join his duty due to sickness .The Management charge sheeted him on the ground of absentism without satisfactory cause .The Management initiated a Domestic Enquiry appointing Enquiry officer and Presenting Officer to go into the cause of the misconduct and published Notice to this effect in the Local News paper to call for appearance of the workman before the enquiry Committee. The charge levelled against the workman was proved in said enquiry and he was dismissed from service .The workman seeks necessary direction to the Management to quash the punishment and reinstate him with retrospective effect with full back wages and all consequential benefits.

3) The Management –Sijua Area of M/s BCCL filed written statement refuting the stand of the claimant and denied all points raised in the claim . It is the stand of the OP/Management that the workman concerned Shri Prameshwar Mahato was issued charge sheet for unauthorized absentism and charged under para 26.1.1. of Certified Standing Orders .The charge sheet was sent to workman address and published in local New Paper for his appearance before the Committee. The claimant on service of notices neither submitted any explanation nor he appeared before the Enquiry Committee. So the Enquiry Committee conducted ex-parte holding the workman guilty therein of the charge leveled against him as proved .Thereafter, the workman was dismissed from service with approval of the Competent Authority .The enquiry conducted against him was fair and proper .So the workman is not entitled for any relief.

4) The claimant and the management filed their pleadings rebutting each other stand.

5) After filing claim of the statement and counter by the Opposite Party the proceeding set on motion. During the course of preceding a substation petition was filed by the Representative of the Union notifying to substitute his wife Smt. Shaili Devi, as the claimant due to expiry of the workman, supported with the death Certificate of the deceased. The same was admitted. On verification and preliminary enquiry conducted. The Tribunal found the enquiry as fair and proper on 05.10.2005 with further order for final argument. Since then the arguments could not be accomplished on merit due to non-representation of any representative on behalf of the Union/Substitute petitioner. Since the Union left the matter half hearted and finally stopped appearance in regular course since July, 2006. So there is no point to continue with the case particularly when the substitute claimant stopped participating to contest the case since soon after declaring the enquiry fair and proper in favour of the Management on 05.10.2005. Accordingly hearing was concluded on 12.04.2023.

6) The substitute claimant has neither put her appearance nor did she led the argument to arrive at finality of the adjudication to prove her cause against the Management. Despite service of notices substitute petitioner opted to abstain away from the proceedings.

7) Thus, it is clear that the claimant is not interested in adjudication of reference on merits. Thus Tribunal is left with no other option, except to pass a No Claim Award. Therefore based on above findings "No Claim Award" is passed, as required under Sec. 17 of the Industrial Dispute Act., 1947 for publication.

Dr. S. K. THAKUR, Presiding Officer

नई दिल्ली, 5 अक्टूबर, 2023

का. आ. 1635.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधन के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 05/2017) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20/09/2023 को प्राप्त हुआ था।

[सं. एल-22011/6/2016-आई. आर. (सी.एम-II)]

मणिकंदन एन., उप निदेशक

New Delhi, the 5th October, 2023

S.O. 1635.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Ref. No. 05/2017**) of the **Central Government Industrial Tribunal-cum-Labour Court, Lucknow** as shown in the Annexure, in the industrial dispute between the Management of **Food Corporation of India** and their workmen, received by the Central Government on 20/09/2023.

[No. L-22011/6/2016 – IR (CM-II)]

MANIKANDAN N., Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 05/2017

No. L-22011/6/2016-IR(CM-II) dated 30.01.2017

BETWEEN

Shri. C.P. Vaishya S/o Sh. Late N.K. Vaishya House No. 83, Choudhary

Tola, Near Dudhnath Temple, Distt. Sitapur (U.P)

AND

1. The Area Manager, FCI, Distt. Office, 140 B, Loharabag, Distt. Sitapur (U.P) SITAPUR (U.P.) -

2. The Chief Manager (U.P), FCI, Regional Officer, Gomti Nagar, Lucknow. Lucknow.

AWARD

By order No. L-22011/6/2016-IR(CM-II) dated 30.01.2017 the present industrial dispute has been referred for adjudication to this Tribunal in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 the Industrial Disputes Act, 1947 (14 of 1947) by the Central Government, with following schedule:

“क्या क्षेत्र प्रबंधक, भारतीय खाद्य निगम, सीतापुर व अन्य द्वारा श्री सी०पी०वैश्य ए०जी०- 1 (डि०) सेवा निवृत्त को दण्डादेश प्रथम दि० 23.08.2013 एवं दूसरा दण्डादेश दि० 14.11.2013 दिये जाने न्यायोचित एवं बैध है? यदि नहीं तो कामगार किस राहत को पाने का हकदार है?”

Accordingly, an industrial dispute No. 05/2017 has been registered on 27.02.2017.

Brief facts of the case:

The facts of the case, as taken by the claimant in his statement of claim are that he was posted as AG-I(D)/Workman of Food Corporation Food Storage Depot. Sitapur under, administrative jurisdiction of Area Manager FCI District office Sitapur, relieved from the services of the corporation on 31.12.2012 by Area Manager Food Corporation of India District Office Sitapur on account of memorandum under minor penalty in regard of storage loss issued to him vide letter of even No.-2733 dated 29.11.2012/03.03.12 and other letter of even No.-2900 dated 14/18.12.2012.

Further, claimant was employed by employer in category of class III post in Food Corporation of India. The said category of employment falls under the provision of I. D. Act 1947 i.e. direct master and servant relationship between workman and employer.

Following prayers have been made by the claimant:-

“a- Award the reference in favour of the workman/applicant and provide of the workman by directing the opposite party no. 1&2 to pay the amount of Rs.2 lacs and 15 thousand which was illegally recovered and adjusted from the retire mental payment of the applicant along with panel interest till the date of award by the Honorable Tribunal.

b- Any other and further relief as this Honorable Tribunal may deem fit.”

On 27.07.2017 on behalf of the respondent a written statement has been filed, inter alia denying the stand taken by the claimant and it was further stated that considering the representation moved by the claimant, Area Manager being disciplinary Authority has imposed penalty on the charges with full satisfaction and after careful examination of the representation submitted by applicant, contents of Charge sheet, documents related to the cases disciplinary authority finds that defence taken by applicant neither have any weight nor supported by the documentary evidence points of representation submitted by applicant about storage loss are not found convincing satisfactory so, order passed by the Disciplinary/Competent Authority is lawful, reasoned and speaking order in accordance with rules and regulations of F.C.I. (Staff) Regulations 1971, as such the workmen/applicant is not entitled for any relief.

In spite of repeated opportunities given to the workman no evidence either documentary or oral has been filed by him; moreover he has not turned up since 17.07.2018 till date; and the matter was being listed for arguments since 25.03.2021.

On 10.11.2022, when the matter was taken up in revised list, neither the workman nor his legal representative was present. Sri Ashish Srivastava, learned counsel for respondent was present; accordingly, heard his arguments and perused record.

Findings & Conclusion:

Thus, taking into consideration, the above said facts as well as the fact that after filing of statement of claim no oral/documentary evidence has been filed on behalf of the claimant to support his claim, as such, the adjudication case is liable to be dismissed.

So, in view of the said facts, as well as the law laid by the Hon'ble High Court in the case of **V. K. Raj Industries v. Labour Court (I) and others 1981 (29) FLR 194** as under:

“It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief.”

In the case of **M/s Uptron Powertronics Employees' Union, Ghaziabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others 2008 (118) FLR 1164** Hon'ble Allahabad High Court has held as under:

"The law has been settled by the Apex Court in case of Shanker Chakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."

And by the Hon'ble Allahabad High Court in the case of **District Administrative Committee, U.P. P.A.C.C.S.C. Services v. Secretary-cum-G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519**; wherein it has been held as under:

"The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed."

Thus, taking into consideration the facts on record that in the present case the workman has not filed any oral/documentary evidence in support of his claim, so the same is liable to be dismissed.

For the foregoing reasons, the case is dismissed and; and the workman is not entitled for any relief.

LUCKNOW.

Justice ANIL KUMAR, Presiding Officer

06th July, 2023.

नई दिल्ली, 5 अक्टूबर, 2023

का. आ. 1636.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 22/2022) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21/09/2023 को प्राप्त हुआ था।

[सं. एल-22012/49/2022-आई. आर. (सी.एम-II)]

मणिकंदन एन., उप निदेशक

New Delhi, the 5th October, 2023

S.O. 1636.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 22/2022) of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of E.C.L. and their workmen, received by the Central Government on 21/09/2023.

[No. L-22012/49/2022 – IR (CM-II)]

MANIKANDAN N., Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL

PRESENT: Shri Ananda Kumar Mukherjee,
Presiding Officer,
C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 22 OF 2022

PARTIES: Binoy Kumar Panda

Vs.

Management of Amrit Nagar Colliery of ECL

REPRESENTATIVES:

For the Union/Workman: Binoy Kumar Panda (in person).

For the Management of ECL: Mr. P. K. Das, Adv.

INDUSTRY: Coal.
STATE: West Bengal.
Dated: 05.09.2023

AWARD

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order **No. L-22012/49/2022-IR(CM-II)** dated 27.05.2022 has been pleased to refer the following dispute between the employer, that is the Management of Amrit Nagar Colliery under Kunustoria Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

“Whether the demand raised by Colliery Mazdoor Union (INTUC) against the Management of M/s. Eastern Coalfields Ltd. in relation to its Amrit Nagar Colliery (under Kunustoria Area) for payment of arrear wages in respect of Sundays and Holidays to Shri Binoy Kumar Panda, Foreman Incharge, U.M. No. 553223, of Amrit Nagar Colliery on his reversion from Executive Cadre vide order dated 18/10/2013, is legal and justified? If yes, to what relief Shri Binoy Kumar Panda is entitled to? ”

1. On receiving Order **No. L-22012/49/2022-IR(CM-II)** dated 27.05.2022 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 22 of 2022** was registered on 31.05.2022/01.07.2022 and an order was passed issuing notice to the parties under registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

2. Mr. P. K. Das, learned advocate for the management of Amrit Nagar Colliery of Eastern Coalfields Limited is present. The case is fixed up today for appearance of Binoy Kumar Panda, Foreman Incharge (UM No. 553223) of Amrit Nagar Colliery of Eastern Coalfields Limited. In compliance with order dated 05.07.2023 Notice was served upon Binoy Kumar Panda, workman whose name appears in the Schedule of the Reference case. On repeated call, Mr. Chandi Banerjee, General Secretary, Colliery Mazdoor Union (INTUC) is not found available.

3. After registration of the case on 31.05.2022/01.07.2022 Notice were issued to both the parties. The management of Eastern Coalfields Limited appeared and filed written statement on 20.12.2022. Binoy Kumar Panda, workman appeared and filed petition stating that he has laid no claim for payment of arrear wages in respect of Sundays and Holidays and he has no grievance against the management of Amrit Nagar Colliery of Eastern Coalfields Limited. Union representative after Notice did not appear. Having considered the facts and circumstances and the stand taken by the workman, I am of the view that no dispute exists over the scheduled matter. The Industrial Dispute is accordingly disposed of in the form of a **No Dispute Award**. Attendance of Binoy Kumar Panda is dispensed with.

Hence,

ORDERED

that a **No Dispute Award** be drawn up in respect of the above Reference case. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 5 अक्टूबर, 2023

का. आ. 1637.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजको और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 15/2021) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21/09/2023 को प्राप्त हुआ था।

[सं. एल-22012/38/2021-आई. आर. (सी.एम-II)]

मणिकंदन एन., उप निदेशक

New Delhi, the 5th October, 2023

S.O. 1637.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Ref. No. 15/2021**) of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of E.C.L. and their workmen, received by the Central Government on **21/09/2023**.

[No. L-22012/38/2021 – IR (CM-II)]

MANIKANDAN N., Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL

PRESENT: Shri Ananda Kumar Mukherjee,
Presiding Officer,
C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 15 OF 2021

PARTIES: Bula Bouri
Vs.
Management of Bansra Colliery of ECL

REPRESENTATIVES:

For the Union/Workman: None.
For the Management of ECL: Mr. P. K. Das, Adv.

INDUSTRY: Coal.
STATE: West Bengal.
Dated: 11.09.2023

AWARD

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order **No. L-22012/38/2021-IR(CM-II)** dated 16.09.2021 has been pleased to refer the following dispute between the employer, that is the Management of Bansra Colliery under Kunustoria Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the Management of M/s. Eastern Coalfields Ltd. in relation to its Bansra Colliery under Kunustoria Area in imposing a punishment of dismissal on Shri Bula Bouri, U.G. Loader w.e.f. 17.01.2002, vide order No. A-KNT/P&IR/26(B)/6611 dated 17-01-2002 is just and legal? If not, to what relief the workman is entitled to?”

1. On receiving Order **No. L-22012/38/2021-IR(CM-II)** dated 16.09.2021 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 15 of 2021** was registered on 17.09.2021 and an order was passed issuing notice to the parties under registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.
2. The management of Eastern Coalfields Limited is represented by Mr. P.K. Das, learned advocate. On repeated calls at 1:15 PM none appears for Bula Bouri, the dismissed workman.
3. In compliance with order dated 05.07.2023, Notice under registered post was issued to Bula Bouri at his permanent address, submitted by the advocate for Eastern Coalfields Limited. None appeared for the workman. This Industrial Dispute has been raised through the General Secretary, Colliery Mazdoor Congress, Asansol. Since 06.07.2022 no step has been taken by the aggrieved workman who has challenged his dismissal from service w.e.f. 17.01.2002. Due to continuous absence of the workman it is presumed that the workman is not interested to pursue this case any further. Therefore, I find no reason to proceed further with this Industrial Dispute and the same is dismissed in the form of a **No Dispute Award**.

Hence,

ORDERED

that a **No Dispute Award** be drawn up in respect of the above Reference case. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 5 अक्तूबर, 2023

का. आ. 1638.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 11/2018) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21/09/2023 को प्राप्त हुआ था।

[सं. एल-22012/82/2017-आई. आर. (सी.एम-II)]

मणिकंदन एन., उप निदेशक

New Delhi, the 5th October, 2023

S.O. 1638.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Ref. No. 11/2018**) of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of E.C.L. and their workmen, received by the Central Government on **21/09/2023**.

[No. L-22012/82/2017 – IR (CM-II)]

MANIKANDAN N., Dy. Director

ANNEXURE**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL**

PRESENT: Shri Ananda Kumar Mukherjee,
Presiding Officer,
C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 11 OF 2018

PARTIES: Pradip Kumar Ram
Vs.
Management of Khandra Colliery of ECL

REPRESENTATIVES:

For the Union/Workman: None.
For the Management of ECL: Mr. Mani Padma Banerjee, Adv.

INDUSTRY: Coal.
STATE: West Bengal.
Dated: 01.09.2023

AWARD

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order **No. L-22012/82/2017-IR(CM-II)** dated 14.03.2018 has been pleased to refer the following dispute between the employer, that is the Management of Khandra Colliery under Bankola Area of Mines of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

- “ 1) Is the demand of regularisation/ promotion an Industrial Dispute under the ID Act?
2) If yes, whether the demand of Colliery Mazdoor Union for promotion/ regularisation of Shri Pradip Kr. Ram, Timbar Mazdoor to fitter helper, working in NKJ Unit of Khandra Colliery, Bankola Area, M/s E.C.Ltd., as Fitter Helper since 27.11.2012 and 18.12.2013, as claimed, is legal and justified?
3) If yes, what relief both workmen are entitled to and from which date? ”

1. On receiving Order No. L-22012/82/2017-IR(CM-II) dated 14.03.2018 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 11 of 2018** was registered on 26.03.2018 and an order was passed issuing notice to the parties under registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

2. Mr. Mani Padma Banerjee, learned advocate for management of Eastern Coalfields Limited is present. Case is fixed up today for appearance of the workman and showing cause. By order dated 08.05.2023, Office was directed to issue Notice to Sri Pradip Kumar Ram, the aggrieved workman. On basis of the address provided by Eastern Coalfields Limited through their learned advocate, Notice was sent to Sri Pradip Kumar Ram under registered at the given address fixing today for appearance of workman and showing cause. On repeated calls, none appeared for the workman. Assistant General Secretary, Colliery Mazdoor Union (INTUC), Asansol was also served with notice regarding this Industrial Dispute but none appeared for the union as well. Since registration of this case on 26.03.2018, the workman has remained unrepresented after consecutive Notice.

3. The management of Eastern Coalfields Limited has filed their written statement on 02.12.2022 contending therein that promotion/regularisation is covered under Cadre Scheme of the company and is effected as per vacancy approved in Manpower Budget 2015-2016 and that management will take necessary action for filing up vacancy of Fitter-Helper on basis of promotion / regularisation norms, eligibility criteria of cadre scheme keeping Scheduled Cast/Scheduled Tribe reservation, if applicable.

4. It is further stated that case of Pradip Kumar Ram will be considered along with other eligible candidates on the basis of promotion / regularisation norms, eligibility criteria and Cadre Scheme, keeping in view applicability of reservation under Scheduled Cast / Scheduled Tribe.

5. I have considered the claim in Schedule as well as written statement submitted on behalf of Eastern Coalfields Limited. In the last five years, the workman has taken no steps. Under such circumstances, Industrial Dispute raised on behalf of workman is disposed in form of a **No Dispute Award**.

Hence,

ORDERED

that a **No Dispute Award** be drawn up in respect of the above Industrial Dispute. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 9 अक्टूबर, 2023

का. आ. 1639.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एचडीएफसी बैंक के प्रबंधन, संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कोलकता के पंचाट (संदर्भ संख्या 64/2014) प्रकाशित करती है।

[सं. एल-12011/48/2014- IR(B-I)]

सलोनी, उप निदेशक

New Delhi, the 9th October, 2023

S.O. 1639.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 64/2014) of the *Cent. Govt. Indus. Tribunal-cum-Labour Court Kolkata* as shown in the Annexure, in the industrial dispute between the management of HDFC Bank and their workmen.

[No. L-12011/48/2014- IR(B-I)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present : Justice K. D. Bhutia, Presiding Officer

REF. NO. 64 OF 2014

Parties : Employers in relation to the management of

HDFC Bank.

AND

Their Workmen

Appearance:

On behalf of the HDFC Bank: Mr. Dipanjan Rudra,

Sr. Manager – Administration.

On behalf of S&IB Services Pvt. Ltd.: Mr. Tapan Kumar

Chakraborty, Authorised Representative

On behalf of the Union : Mr. Milan Das,

Authorised Representative

Dated: 25th July, 2023

AWARD

By Order No L-12011/48/2014 /(IR) (B-I) dated 28-08-2014, the Central Government, Ministry of Labour in exercise of power conferred under section 10(1) (d) and (2A) of the Industrial Dispute Act, 1947 has referred the following issue to this Tribunal for adjudication :-

“Whether the action of the management of M/s. S&IB Services Pvt. Ltd., contractor of HDFC Bank Ltd. by issuing notice for change of designation of CCA to Facility Attendant is legal and/or justified? If not, what relief the workmen are entitled to?”

The facts leading to the present case are that HDFC Bank Ltd. has engaged security guards as Customer Care Attendant (CCA) at its different ATMs through a service provider/contractor named M/s. S&IB Services Pvt. Ltd. The contractor employer issued a notice dated 21-03-2013, informing those Security Guards /CCA that as per the direction of the bank their nomenclature or designation has been substituted as “Facility Attendant” from CCA and additional job of cleaning and sweeping of the ATM enclosures was added to their duty.

The union which has espoused the present dispute has alleged by issuing such notice dated 21-03-2013 the service conditions of the Security Guards/ CCA have been changed. Such notice is in contravention of section 9A of the Industrial Dispute Act, 1947 and not being in form-F of Rule 34 of the Industrial Dispute (Central) Rules, 1947 and just to deprive them the minimum wages applicable to the watch and ward staff. Therefore, the Union has alleged that the notice dated 21-03-2013 is void ab initio and for setting aside of the same restoring the service conditions of the workmen as it was prevailing prior to 01-04-2013 and for awarding any other relief to which they are entitled to.

HDFC Bank Ltd. in its written statement has alleged that there exists no relationship of employer and employees between it and those CCA/ F.A. engaged by its service provider at its ATMs. The impugned notice has not affected or prejudiced the status of those workmen or deprived them any financial benefits. More so, the alleged so called change is not covered by the IVth schedule of the Act. With all these it has prayed for dismissal of the reference against it.

The S&IB Services Pvt. Ltd., the employer of those workmen in its written statement has alleged that the reference is bad in law as there exists no industrial dispute as alleged and such dispute is not covered by IVth schedule of the Act, to attract section 9A. There is a mere change in the designation of the security personnel deployed at ATMs of HDFC Bank Ltd. and which has not caused any prejudice to the interest of those security personnel. The change in the designation from CCA to FA or assignment of house keeping work of keeping the ATMs premises clean, can be characterised as a change of service condition or that it was done to deprive minimum wages applicable to watch and ward staff. F.A. are paid additional allowance of Rs.350/- per month towards house keeping in addition to minimum wages paid to them as per Central Govt. notification and which is subjected to periodical revision. Thus, it has prayed for dismissal of the reference.

Perused the record. No evidence either oral or documentary have been adduced by the parties to substantiate their claim and defence, but they have filed written notes of argument.

It is the case of the Union by issuing notice dated 21-03-2013 the employer has changed the nomenclature of CCA to F.A. and they have been given additional job of sweeping and cleaning of ATM enclosures. Further, they have alleged that such change has been brought to deprive them the minimum wages payable to the watch and ward staff.

It is very interesting to note, the Union has failed to produce appointment letters of those Security Guards who were engaged by S&IB Services Pvt. Ltd. to work at different ATMs of HDFC Bank Ltd. to prove the nature of their job. No oral or documentary evidence have come on record to show that due to the issuance of notice dated 21-03-2013 change has been brought in the condition of service of those employees. Further, no evidence have come on record that while they were discharging their function under the nomenclature CCA some other persons were engaged by the bank or by S&IB Services Pvt. Ltd. to clean the ATMs enclosures.

Further, the Union have failed to produce the pay slips of those employees to show that after issuance of notice dated 21-03-2013 there is a change in their wages. They were/are not paid minimum wages to which they are entitled to under the Central Govt. notification issued under Minimum Wages Act or to prove that they used to receive more wages but after the issuance of the disputed notice and change in their designation they are paid less salary or wages.

M/S S&IB Services Ltd. has filed copy of an agreement executed in between it and the bank on 01-04-2012. Such agreement clearly shows that it is the duty of the person who are deputed as an ATM Attendant to keep the ATM centre properly clean and maintained it all times. It further show that ATM Attendant shall make sure that no any other person except the customer entering the ATM counter for doing bank transaction should be allowed.

M/s. S&IB Services Pvt. Ltd. have also filed list of its employees deputed to work in the different ATMs of HDFC Bank Ltd. as per contract dated 01-04-2012 and their pay slips. Pay slips show that they are uniformly paid Rs.433.29 per day along with VDA and HRA and from their wages/salary EPF contribution and ESI contribution are also deducted.

However, no pay slip has been filed by M/s. S&IB Services Pvt. Ltd. to show that indeed in view of notification dated 21-03-2013 it has been paying housekeeping allowance of Rs.350/- to those CCA/FAs.

In order to constitute a change in the condition of service under section 9A those service conditions should be specified in the IVth schedule of the Act but the IVth schedule of the Act is totally silent about the change in the nomenclature of designation tantamount to change in the condition of service. IVth schedule, Item no.4 deals with classification of Grade, but in the present case the Union has failed to prove in which Grade those CCA used to work and how the notification dated 21-03-2013 has affected their Grade.

In view of the above discussion, this Tribunal holds that Union has miserably failed to prove that there has been a change in the service condition of those Security Guards posted at different ATMs of HDFC Bank Ltd. in view of the notice dated 21-03-2013 by changing their designation from CCA to Facility Attendant.

Accordingly, the Tribunal holds there is no merit in the reference. Accordingly, Reference No.64 of 2014 is dismissed and award is passed to that effect.

K.D. BHUTIA, Presiding Officer

नई दिल्ली, 9 अक्टूबर, 2023

का. आ. 1640.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टैंडर्ड चार्टर्ड बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कोलकता के पंचाट (संदर्भ संख्या 21/2019) प्रकाशित करती है।

[सं. एल-12025/01/2023- IR(B-I)]-72

सलोनी, उप निदेशक

New Delhi, the 9th October, 2023

S.O. 1640.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 21/2019) of the *Cent. Govt. Indus. Tribunal-cum-Labour Court Kolkata* as shown in the Annexure, in the industrial dispute between the management of Standard Chartered Bank and their workman.

[No. L- 12025/01/2023- IR(B-I)-72]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present : Justice K. D. Bhutia, Presiding Officer.

REF. NO. 21 OF 2019

Parties : Employers in relation to the management of

Standard Chartered Bank.

Versus

Sri Saileshwar Chakraborty, Manager (Internal Control)

Appearance :

On behalf of Bank :

Sri Ranjay De, Advocate

On behalf of Sri Saileshwar Chakraborty:

Himself

Dated: 11th July, 2023**AWARD**

The management of Standard Chartered Bank is represented by its Ld. Counsel Mr. Ranjay De.

The concerned employee is present in person.

The present reference case has been taken up for hearing on the point of maintainability.

Heard the Ld. Counsel for the management of Standard Chartered Bank and the concerned employee on the point of maintainability of the present reference. It is pertinent to mention here, the alleged workman has been conducting the present case on his own.

The Deputy Chief Labour Commissioner (C), Kolkata being vested with delegated power under section 39 of the Industrial Dispute Act, 1947 and in view of notification no.SO 1936 (E) dated 10-06-2019 and in exercise of power conferred under section 10(1) (d) and sub section (2-A) of the Industrial Dispute Act, 1947 has referred the following issue to this Tribunal for adjudication vide order dated 28-10-2019 :

“Whether Sri Saileshwar Chakraborty, working as a Manager (Internal Control) with the management of Standard Chartered Bank, was actually performing his duties as a workman as defined under section 2(s) of the Industrial Dispute Act, 1947? If so, whether the alleged illegal termination of service of Sri Saileshwar Chakraborty by way of wrongful resignation by the management of M/s. Standard Chartered Bank w.e.f. 29-07-1992 is legal, just and proper? If not, what relief the concerned workman is entitled to?

The facts that are necessary for determination of the issue on the point of maintainability as gathered from the submission made by the concerned employee and his claim statement in gist is that the concerned employee Sri Saileshwar Chakraborty joined Standard Chartered Bank as a Clerk in the year 1962. In the due course he was promoted to the post of Manager (Internal Control) by the Board of the Bank situated in London.

It has been alleged by Sri Chakraborty that he became a victim for exposing the management of Standard Chartered Bank for syphoning the profit of the bank out of India. That he has unearth great financial irregularities while he took the inspection of the Accounts Department of the Bank being a Manager (Internal Control). That he was forcibly asked to sign on some papers in Mumbai in the year 1992 and which was later used as his resignation letter. That he has been prevented to join his duty on and from 30-07-1992. That he never tendered any resignation to the Bank. He has not been paid any of his statutory dues and service benefits by the management on the alleged voluntary resignation till date.

While, the Management in its applications challenging the maintainability of the present reference has contended when the order of reference itself is explicitly clear there was severance of employer-employee relationship between Sri Saileshwar Chakraborty, Manager (Internal Control) and the Bank on 29.07.1992. Without admitting the status of Sri Saileshwar Chakraborty, Manager (Internal Control) to be a workman and without complying the statutory provision contained in Section 2-A of the Act, no benefit provided in Sub-Section 2 of Section 2-A of the Act of 1947 can be extended to the concerned employee. The time limit of three years as provided in Sub-Section (3) of Section 2-A of Act, is sine-qua-non for availing the benefit of Sub-Section(2) of section 2-A. Therefore, it has alleged the present reference is not maintainable.

On this background let me first decide whether Sri Saileshwar Chakraborty, Manager (Internal Control) with the management of Standard Chartered Bank was performing his duty as workman as defined in section 2(s) of the Industrial Dispute Act.

The term “Workman” has been defined in Section 2(s) of the Act of 1947 and which means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person-

(i) Who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or

(ii) Who is employed in the police service or as an officer or other employee of a prison; or

(iii) Who is employed mainly in a managerial or administrative capacity; or

(iv) Who being employed in a supervisory capacity, draws wages exceeding ten thousand rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.

In the present case, the workman has submitted in open court that he joined the Standard Chartered Bank as a Clerk in the year 1962. Due to his meritorious performance, honesty and integrity he was promoted to the post of Manager (Internal Control). That he was given promotion by the Board of the bank situated in London. He was holding the post of Manager (Internal Control) in the year 1992, when the alleged incident of wrongful resignation took place. Further, he submitted that he being a Manager (Internal Control) his duty was to inspect the accounts department of the Bank. He became the victim in the hands of the management, when he found financial illegality caused by the management of the bank in syphoning the profit from India. He never tendered his resignation rather he was forced to sign on a letter which was treated as his resignation letter.

It has been contended, though he was a Manager (Internal Control) of the Bank, he was not in managerial post as he never used to supervise the sub-ordinate staff of the Bank and no staff of the Bank used to work under him. He used to work in independent capacity as Manager (Internal Control). However, he has submitted that he joined the bank as a clerk in the year 1962 and in the course of his continued service of 30 years he was promoted as a Manager (Internal Control) by the Board of the Bank situated in London. He as a Manager (Internal Control) his task was to inspect the accounts department of the Bank not only of Calcutta but also that of Mumbai. In the course of inspection he had detected a gross financial irregularities of the bank. Therefore, from such submission of the concerned employee it proves he was holding not only a managerial post but also administrative post, when the incident of alleged wrongful resignation took place on 29.07.1992.

That apart in view of section 2 (s) of the ID Act, a person who was promoted from the post of a clerk to Manager (Internal Control) and that too being recommended by the Board of the Bank situated in London cannot be deemed to be workman. Therefore, this Tribunal holds, Sri Chakraborty being a Manager (Internal Control) of Standard Chartered Bank, he cannot be deemed to be a workman as defined in section 2(s) of the ID act.

Further, the management of Standard Chartered Bank has challenged the maintainability of the present reference on the ground being barred by limitation in view of Sub-Section(3) of section 2-A of the I.D. Act, 1947.

Ld. Counsel for the Bank has contended, in view of Sub-Section (3) of Section 2-A of the I.D. Act, 1947 the workman should have moved the Labour Court or Tribunal before expiry of three years from the date of his discharge/ dismissal, retrenchment or otherwise termination of service but he having moved the Labour Commissioner in the year 2019, almost 27 years after his alleged termination and as such the present reference being time barred is not maintainable.

Ld. Counsel for the management submits that the present case cannot fall within the definition of Industrial Dispute in view of provision of section 2k of the I.D. Act. Section 2k of the I.D. Act defines industrial dispute means any dispute or difference between the employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person. It does not speak about a dispute between the employer and an individual workman.

Ld. Counsel for the management referred to Delhi Transport Corpn. vs Shyamlal, (2004) 8 SCC and submitted since Sri Chakraborty had admitted that he is no more in service from 29-07-1992 it shows that he has tendered resignation on that date and therefore he cannot retract from his such admission.

Ld. Counsel for the management submits that Tribunal derives its jurisdiction by order of reference and not on the determination of a jurisdictional fact which it must necessity decide to acquire jurisdiction. A jurisdictional fact is a fact which must exist before a court, Tribunal or an authority assumes jurisdiction over a particular matter. A jurisdictional fact is one on existence or non-existence of which depends jurisdiction of a Court, a Tribunal or an authority. It is the fact upon which an administrative agency's power to act depends. If the jurisdictional fact does not exist, the court, authority or Officer cannot act. The existence of jurisdiction fact is thus sine qua non or condition precedent for the exercise of power of a Court of limited jurisdiction. In support, he referred to Arun Kumar and & Ors. Vs- Union of India & Ors., CDJ SC 754.

Ld. Counsel for the management submitted the present reference can be decided on the question of maintainability on the basis of the schedule of the reference itself and there is no need to take any evidence. He in support, referred to Hindustan Lever Ltd. vs- Fourth Industrial Tribunal, 2007 (1) L.L.N.881 and where it has been observed "If on an admitted fact the issue of maintainability of the reference can be decided and when no further evidence is necessary the question of maintainability of the reference is required to be taken up for consideration".

Further, Ld. Counsel for the management submits section 2A (3) of the I.D. Act, clearly provides when an individual workman whose cause has not been espoused by the Union or by group of workmen or by any other workmen then his case of discharge, dismissal and retrenchment and otherwise termination of the service falls

squarley under section 2-A of the I.D. Act and in view of sub section 3 of Section 2-A, he should raise an industrial dispute before expiry of three years from the date of discharge, dismissal and retrenchment or otherwise termination of service.

He has further submitted, when the language of the statute is plain and clear then the literal rule of interpretation has to be applied and there is ordinarily no scope for consideration of equity, public interest or seeking the intention of the legislature. It is only when the language of the statute is not clear or ambiguous or there is some conflict, etc. or the plain language leads to some absurdity that one can depart from the literal rule of interpretation. When there is a conflict between the law and equity it is the law which must prevail. The law is hard but it is the law. In support he referred to *Vijay Narayan Thatte & Ors. Vs State of Maharashtra & Ors.* (2009) 9 SCC 92.

Ld. Counsel for the management submits the reference order itself speaks that Sri Chakraborty has not been in service since 29-07-1992 by virtue of alleged resignation or termination of his service. That if the concerned employee remains silent for long 27 years and suddenly he challenge his alleged wrongful resignation after 27 years, he is estopped from challenging the same as his case is barred by limitation in view of provision of sub section 3 of Section 2-A.

Tribunal cannot travel beyond the order of reference. He in support of such contention referred to *Oshiar Prasad and Others –vs- Employers in Relation to Management of Sudamdih Coal Washery of M/s. Bharat Coking Coal Ltd., Dhanbad, Jharkhand* (2015) 4 SCC 71.

He further submitted provision of sub section 3 of Section 2-A, is mandatory. If the statute is mandatory things done not in the manner or form prescribed have no effect or validity, but if it is directory, non compliance may not lead to serious and adverse consequence. He in support referred to *M/s. Rubber House –vs- M/S Excelsior Needle Industries (P) Ltd.* (1989) 2 SCC 413.

On such submission by ld counsel for the Bank, Sri Saileshwar Chakraborty submits that no law of limitation apply in an industrial dispute.

Deputy Chief Labour Commissioner, Calcutta has referred the present dispute for adjudication whether resignation of Sri Saileshwar Chakraborty Manager (Internal Control) of Standard Chartered Bank on 29.07.1992 to be wrongful or not under section 10 (1)(d) & (2A) of the I.D. Act. On the other hand ld counsel for the bank has submitted the present case squarely falls under Section 2-A of the I.D. Act, not being sponsored by any union or by group of workmen as a common cause.

Having regards to the submission made by both sides it is necessary to understand the concept of industrial dispute and individual dispute under the I.D. Act, 1947. Industrial Dispute has been defined under section 2(k) as follows :-

Industrial dispute, means any dispute or difference between employers and employees, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person.

Industrial dispute as defined under section 2k exists between employers and workmen, employers and employers and workmen and workmen. There has to be factum for dispute not merely a difference of opinion. The dispute has to be espoused by the union or by a group of workmen. The dispute affect not only the interest of an individual workman but that of several workmen as a class who are working in an industrial establishment. The dispute may be in relationship to any workman or workmen or any other person in whom they are interested as a body. Individual dispute to fall within the definition of industrial dispute, it must be sponsored by the trade union of the workmen or if there is no trade union it must be sponsored by the majority of the workmen or it must comply with the requirement of section 2-A of the I.D. Act, 1947.

Section 2-A provides Dismissal etc., of an individual workman to be deemed to be an industrial dispute and read as (1) Where any employer discharges, dismisses, retrenches or otherwise terminates the service of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workman is a party to the dispute.

(2) Notwithstanding anything contained in section 10, any such workman as is specified in sub section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.

(3) The application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub section (1).

Thus it appears Section 2A, deals with an individual workman's dispute to be an industrial dispute provided it relates to discharge, dismiss, retrench or termination from service and who may make an application directly to the Labour Court or Industrial Tribunal for adjudication of such dispute after the expiry of three months when an application was made before the Conciliation Officer. The said application, however, should be made within three years of the date of dismissal, discharge, retrenchment or termination of service. The Tribunal shall proceed to hear the matter as if it was referred to it under section 10 of the I.D. Act.

An individual dispute even though not sponsored by other workmen or espoused by the union would be deemed to be an industrial dispute if it covers any of the matter mentioned in section 2A. Further, a dispute involving a single workman can be considered as an industrial dispute if the dispute is supported by the union or a group of workmen, regardless of whether the union supporting the workman's cause is not the majority of the union.

Therefore, in the present case as per the order of reference the dispute relates to an individual employee not sponsored either by the union or by a considerable number of workmen and the dispute relates to an alleged illegal resignation dated 29-07-1992 or termination of service of Sri Saileshwar Chakraborty as a Manager (Internal Control) in the Standard Chartered Bank.

Therefore, though the dispute has been referred to this Tribunal by the Deputy Chief Labour Commissioner, Calcutta under section 10 of the I.D. Act but in true spirit it appears to be a dispute under section 2-A. Since the dispute is to be under section 2-A of the I.D. Act, 1947 and in view of section 2-A (3), Sri Saileshwar Chakraborty the alleged employee should have raised the dispute challenging his termination or his alleged illegal resignation within three years from 29.07.1992 or from the date he was prevented from working as a Manager (Internal Control) in the Standard Chartered Bank. The record prima facie shows he has raised the dispute before the Deputy Chief Labour Commissioner 27 years after his alleged termination or alleged illegal resignation. Therefore, this Tribunal is of view, the present reference case is barred by limitation and not maintainable. More so, Sri Saileshwar Chakraborty is held not to be a workman as defined in section 2(k) of the I.D. Act.

Therefore, the present Reference case no.21 of 2021 is dismissed being not maintainable and award is passed accordingly.

However, it has been alleged by Sri Saileshwar Chakraborty that till date he has not been received any of his statutory due or service benefits to which he is otherwise entitled from the bank since 29-07-1992.

Having regards to such submission the bank is directed to pay all the statutory dues and service benefits which it is liable to pay to Sri Saileshwar Chakraborty, Manager (Internal Control) and to which he is legally entitled from the day the relationship of employer and employee was severed in between Sri Saileshwar Chakraborty, Manager (Internal Control) and the bank i.e. from 29-07-1992. The bank is directed to clear all the dues within a month from the date hereof. Office is directed to send copy of this order to the bank for compliance.

K.D. BHUTIA, Presiding Officer

नई दिल्ली, 9 अक्टूबर, 2023

का. आ. 1641.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (संदर्भ संख्या 31/2012) प्रकाशित करती है।

[सं. एल-12012/17/2012- आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 9th October, 2023

S.O. 1641.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 31/2012) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12012/17/2012- IR(B-I)]

SALONI, Dy. Director

ANNEXURE**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT
HYDERABAD****Present: - Sri IRFAN QAMAR****Presiding Officer**Dated the 10th day of July, 2023**INDUSTRIAL DISPUTE No. 31/2012****Between:**

Sri V.V. Sharma,
H.No.43-77-14/A,
Block No.77,
A.S. Nagar,
Vijayawada.

....Petitioner

AND

1. The Assistant General Manager,
State Bank of India,
Zonal Office, Admn. Unit,
Suryaraopet, Vijayawada.
2. The Branch Manager,
State Bank of India,
BRP Branch,
Governorpet,
Vijayawada – 002.

....Respondents

Appearances:

For the Petitioner : Sri Ch. Indrasena Reddy, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L-12012/17/2012-IR(B-I) dated 19.7.2012 referred the following dispute between the management of State Bank of India and their workman under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal. The reference is,

SCHEDULE

Whether the action of the management of State Bank of India, Vijayawada in terminating the services of Shri V.V. Sharma w.e.f. 4/10/2008 is legal and justified? To what relief the workman entitled?"

The reference is numbered in this Tribunal as I.D. No. 31/2012 and notices were issued to the parties. A 'Nil Award' was passed vide order dated 9.7.2014 due to non-appearance of the Petitioner, which was reopened later vide order dated 16.2.2016.

2. Petitioner filed his claim statement challenging the oral order of termination dated 4.10.2008. Respondent filed counter. But Petitioner has not substantiated his claim by adducing any evidence, although sufficient number of opportunities have been provided to him.
3. Perusal of the docket reveals that Petitioner is not putting his presence in this ID since 2017. It thus becomes crystal clear that the petitioner do not want to prosecute his case. Therefore, Petitioner's case is dismissed for non-prosecution. As such, a 'No Claim' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant, corrected by me on this the 10th day of July, 2023.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the
Petitioner
NIL

Witnesses examined for the
Respondent
NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 9 अक्टूबर, 2023

का. आ. 1642.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (संदर्भ संख्या 11/2001) प्रकाशित करती है।

[सं. एल-12012/283/2000- आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 9th October, 2023

S.O. 1642.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 11/2001) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12012/283/2000- IR(B-I)]

SALONI, Dy. Director

ANNEXURE**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT
HYDERABAD**

Present: Sri Irfan Qamar, Presiding Officer

Dated the 18th day of September, 2023

INDUSTRIAL DISPUTE No. 11/2001

Between:

Sri A. Ramulu,

S/o Nagaiah,

C/o D. Peraiah,

8th Ward,

Avanigadda.

Krishan Distt.

... Petitioner

And

The Assistant General Manager,

State Bank of India,

Zonal Office, RG-II,

Labbipet,

Vijayawada -520 004.

.....Respondent

Appearances:

For the Petitioner : Sri Suman, Advocate

For the Respondent: Sri Y. Ranjith Reddy, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L-12012/283/2000-IR(B.I) dated 19.4.2001 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 requiring this forum to decide the question:

SCHEDULE

“Whether the action of the management of State Bank of India, Vijayawada Zone in dismissing services of Shri A. Ramulu, Ex.Messenger, is justified? If not, to what relief the workman is entitled?”

After receipt of the reference, it was numbered as ID No.11/2001 and notices were issued to both the workman and the management.

2. Earlier this reference was answered by this Tribunal by a common award dated 17.5.2005, along with other batch cases, and the claim of the workman was dismissed. Workman challenged said award before the Hon'ble High Court vide WP No. 6470/2006 & batch wherein Hon'ble High Court of A.P., vide decision dated 23.6.2014 set aside the common award dated 17.5.2005 passed by Central Government Industrial Tribunal cum Labour Court, Hyderabad and directed the Respondent bank to reengage the workmen in the positions which they had been occupying prior to termination. Being aggrieved by the said order in WP No. 6470/2006 & batch, Respondent bank preferred appeal WA Nos.1268/2014 and batch cases wherein Division Bench of Hon'ble High Court held:-

- “(1) affirming the impugned common order of the learned single Judge to the “extent it sets aside the common award dated 17.5.2005 of the Industrial Tribunal;
- (2) The further findings and directions issued through the impugned common order are vacated;
- (3) all the matters shall be remitted to the Industrial Tribunal with a direction to dispose of them within an outer limit of five(5) months from the date of receipt of a copy of this order; and,
- (4) the parties to make appearance before the Tribunal on the given date.”

Hon'ble High Court of Andhra Pradesh in WA No.1268/2014 and other batch, held that, “Hearing the learned senior counsel for the SBI and the Learned Senior Counsel for the contesting unofficial respondents, we see that while the learned single Judge was justified in setting aside the award of the Tribunal. This we say for reasons more than one. Firstly, in such matters, claims have to be decided on individual basis, as different persons have different claims as to the length of officiation or discharge of duties and functions; quality of engagement, drawings, accounting of the post for each one of them, who have worked etc. All these issues will not be the same in all the cases. Therefore, each case ought to have been directed to be decided by the Tribunal afresh on individual basis. The second and the most important aspect is the learned single Judge has in one go ordered re-employment of all the workmen. This is not a relief that could have been granted without answering the individual issues; each issue relating to each case could not have been decided by the writ Court within the format of its adjudication procedures and scope. The adjudicating body, which has to do that activity, is the Industrial Tribunal. Therefore, we are of the view that while we would sustain the order of the learned single Judge insofar as it interfered and sets aside the award of the Tribunal, the further findings and directions, issued through the impugned order have to go and the individual cases HCJ&ARR, J WA No. 1268 of 2014 & Batch 6 have to be sent back for consideration of the Tribunal. Such further procedure before the Tribunal will have to be carried forward with the materials already on record and also by affording an opportunity to the persons, who have claims as well as the management to place their rival contentions and further material before the Tribunal//The learned counsel appearing for the workmen are justified in pointing out that enormous delay has already happened and further action by the Tribunal in this line may be expedited.”

Therefore, in compliance with order dated 20.3.2019 of Hon'ble High Court of A.P., Hyderabad passed in WA No.1268/2014, this Industrial Tribunal conducted hearing proceedings in this reference on an individual basis and both parties have been provided ample hearing opportunity during the proceeding.

The factual matrix of the present industrial dispute is as follows:

3. The workman filed his claim statement with the averments in brief as follows:

The petitioner, Sri A. Ramulu was working as a Messenger in the State Bank of India from 1982 to 1992. He worked until 1.4.1997 when he was stopped from working based on the orders of the respondent panels. The Petitioner belongs to Scheduled caste. It is submitted that the workman joined in the services of the Management Institution as Messenger and rendered unblemished service spreading over a period of about 5 years, and by dint of hard work till his services were terminated by oral orders w.e.f. 1.4.1997. It is submitted that the Management of Bank decided to give a chance to temporarily employed personnel “found suitable for permanent appointment” by wait-listing them, by offering permanent appointment or wait-listing till such opportunity arises. It is submitted that on 17.11.1987 a Settlement was reached between All India State Bank of India Staff Federation and the Management of Bank Settlement-1. Under this Settlement, three categories of employees were listed - (a) Those who have

completed 240 days in 12 months or less after 1.7.1975; (b) Those who have completed 270 days in any continuous block of 36 calendar months after 1.7.1975; and (c) Those who have completed minimum of 30 days aggregate in a continuous, block of 12 calendar months after 1.7.1975. Persons who satisfy any of the above three categories were to be interviewed by a Selection Committee. The said Selection Committee determine suitability of the said candidate for permanent appointment. Therefore, the bank first had opportunity to notice and observe the work of the workmen, then prescribed certain qualification and from among the candidates satisfying the qualifications. The suitable candidates were enlisted by a Selection Committee Clause (7) of the said agreement provided that the selected candidates would be waitlisted in order of their respective categorization and the select panel be valid upto December 1991 Clause (10) of the Settlement specifically provided that henceforth, "there will be no temporary appointments in the subordinate cadre", except on a restrictive basis in the specified category, "from amongst empanelled candidates as per existing guidelines of the Bank". Clause (1) of the agreement excluded categorized persons who are ineligible. The workman further submitted that consequent upon the said agreement and the Draft, a Notification was issued in the Newspapers. The last date for responding to the advertisement was 30.8.1988. A written examination followed by viva-voce in May 1989 was held. A select panel was prepared. As per clause (7) of the Agreement (Settlement-I) the select panel was to be valid up till December, 1991. It was however, given currency and renewed upto 1997. However, this did not put to an end the legitimate claims of various persons like the workman. It is submitted that the Government of India issued Circular No. F-3/3/104/87-IR, dated 16.8.1990. By and under the said Circular, the Chief Executives of all Public Sector Banks including the management were specifically instructed that until the problem of existing temporary employees is fully resolved, no Bank be permitted to make any temporary appointments. The workman further submits that some of the persons similarly situated like the workman aggrieved by the inaction on the part of the Management Bank in not regularizing their services from out of the select panel and not clearly focusing the vacancy position, filed W.P.No. 4194/97 on the file of the Hon'ble High Court of Andhra Pradesh. It is specifically averred in the said writ petition that the management of the Bank had failed to implement the Settlement and that it violates the various Fundamental rights guaranteed under the Constitution of India. The Hon'ble High Court by an order dated 5.3.1997 directed the Bank to implement the Settlement as amended from time to time. It also directed the Bank to carry out the terms of the Settlement before the expiry of March, 1997. The High Court also recorded a finding that the Bank cannot escape its liability of enforcement of the settlement. In view of the directions granted by the High Court in W.P. No. 4194/97 all candidates whose names appeared in the select panels prepared on the basis of the agreement entered into on 17.11.1987 under which the panel was valid upto December, 1991 and on the basis of a Settlement dated 27.10.1988 whereby the panels were made alive upto 31.3.1997 under which the panel was valid upto December, 1999. The other agreement dated 16.7.1988 under which the panel was valid upto 1992 and on the basis of the Settlement dated 27.10.1988 whereby the panels were made alive upto 31.3.1997 were under the bonafide impression that their cases will be considered for regularization and were living on the basis of the said reasonable expectation. Unfortunately, contrary to the directions given by the High Court on 5.3.1997 in WP No 4194/97 and contrary to the settlements entered into between the parties. The Bank issued proceedings dated 25.3.1997, 27.3.1997 and 31.3.1997 instructing the various authorities of the Management not to continue the temporary employees those who are in services of the Bank from 1.4.1997. The said order was followed by the Management. Aggrieved by the said action the workman and similarly situated candidates have filed a writ petition before the Hon'ble High Court by way of writ petition No 9206/97 seeking a declaration that the proceedings issued by the Deputy General Manager and the Assistant General Manager (respondents No.3, 4 and 5) on 25.3.1997, 27.3.1997 and 31.3.1997 as illegal and also non-continuance of the petitioners service by absorbing them in the services of the Bank as violative of Section 2(p) and 18(1) read with Rule 58 of Central Rules and sought for specific direction to the Bank to absorb them in service. The workman further submits that in the counter affidavit filed in the writ petition No. 9206/97, the Bank submitted that it has about 805 Branches in Andhra Pradesh alone. It has stated that due to exigencies of circumstances and on account of the urgent need in its Banks, it employed temporary employees in subordinate cadre. It is pertinent to mention that it does not state the urgent needs or the nature of temporary employees that it had engaged. Enquiry into the same would reveal that the stand taken by the Bank either on the ground of urgent need or of temporary employees is a facade to perpetuate unfair labour practice. It is designed to, on the one hand, keep the employees in the erroneous zone of hope and on the other to ensure that benefits that a model employer will extend under various statutes to its employees is not required to be borne out by the Bank. A reading of the counter affidavit would show that the Bank would opine that being just fair and reasonable are which obviously is reprehensible and is a facet of unfair labour practice. It is further submitted that the Bank refers in its counter affidavit to three Settlements dated 17.11.1987, 16.7.1988 and 27. 10.1988. The Bank in the guise of extending the benefits of the circular of Government dated 16.8.1990 stated in its counter affidavit as follows:

"Government of India. vide its letter dated 16.8.1990, issued guidelines to all the public sector banks with regard to recruitment and absorption of temporary employees in public sector banks. The said guidelines were issued to implement on the lines of the approach paper on the issue provided by a committee constituted in this regard. The Government of India guidelines made it clear that all the public sector banks may follow the provisions laid down in the approach paper.

The approach paper specified that the cases of temporary employees who had put in not less than 240 days of temporary service in 12 consecutive months and who are entitled to benefit of Section 25-F may be decided by entering into a settlement with the representative union. In respect of temporary employees who had put in less than 240 days of service in 12 consecutive months or less, a settlement could be avoided and however if the management so desired, they could enter into a conciliation settlement with the representative union. In para 6(h), it is mentioned that only those temporary employees who had put in temporary service of 90 or more days after 1.1.1982 would be eligible for considering under the scheme. Although the Government guidelines envisaged for a settlement in respect of employees who had put in temporary service of 90 or more days, the Bank by way of further concession entered into settlements even in respect of those who had put in less than 90 days.

As such, it could be seen that the settlements are more beneficial to the temporary employees concerned. The approach paper also specify at para 6 (c) that the Banks would provide one time opportunity to all the temporary employees and for that purpose temporary employees worked in the Bank on or after 1.1.1982 could be considered for re-employment in terms of the scheme. The respondents have gone further wherein even persons working after 1975 were also considered.

As could be seen from the above, there was a genuine effort on the part of the respondent bank to provide permanent employment for as many as possible subject to availability of the vacancies.

It is further submitted that at para (k) of the approach paper, it was made clear that this would be one time exercise in full and final settlement of all the aims and disputes for the past period in respect of temporary workmen covered by the settlement would mean that the Government of India guide lines would cover only those persons who were temporarily employed for the period specified therein and not otherwise. As such, it is submitted that the respondents have not only followed the Government of India guidelines but in fact covered cases of the employees who had worked for less than 90 days. As such, question of violation does not arise and in any case those were only broad guidelines and not directives".

It is submitted that clause (10) of the Settlement it is specifically mentioned that the workmen to be absorbed or appointed in the Bank prohibiting any temporary appointments subsequent to the date of settlement. Even the authorities want to make temporary appointments that should be made only from among the empanelled can be appointed either for temporary vacancy or permanent vacancy except from among the empanelled candidates like the workman and that should be continued till they are absorbed. It is submitted that the respondent Management has indulged in unfair labour practices. The said practice is evident from the actions of the Management Bank. In case of similarly situated workmen like Ch. Survanarayana. B. Venkateswarlu and P. Hussain Saheb who are empanelled by an order dated 3.9.1994 with a direction that their services to be on a very restricted basis against temporary vacancies for not more than 200 days in any continuous block of 12 months so as not to give them statutory right. The caption for such selections has been brought to attention that it was for absorption of temporary employees. That is how the panels for absorption were prepared according to each category 'A', 'B' and 'C'. In view of the regularization of the workmen who served the Bank ranging between 30 days and above has a right for absorption. The same is evident from the proceedings issued by the Management wherein they have specifically mentioned that their cases will be considered for absorption as and when the vacancies arose, till such time they shall be continued on temporary basis. Contrary to the said proceedings, now the Management indulged in unfair labour practices and terminated the service of similarly situated candidates like the workman with effect from 1.4.1997. Hence, the said practice of the Management is highly arbitrary, discriminatory, contrary to their own guidelines and violative of the constitutional provisions which are guaranteed in Chapter-III of the Constitution of India. It is submitted that the workman and other similarly situated workmen who are working as on 31.3.1997 were orally asked not to come to duty from 1.4.1997. In para 3 of the proceedings dated 27.3.1997 it is stated that the panels of temporary employees on daily wages/casual labour maintained by Zonal Offices stand lapsed by 31.3.1997 and reads as follows:

"3. The panels of temporary employees and daily wagers casual labour maintained by Zonal Offices stand lapsed by 31.3. 1997. Please confirm by return of post that the above instructions are meticulously complied with at your branch w.e.f 1.4.1997. Consequent on absorption of temporary employees in permanent cadre, it has been decided by the competent authority that now onwards, no further daily labour or temporary employees/appointments should be resorted to/engaged/employed. This is very important and should be meticulously followed/implemented invariably without fail".

It is submitted that there is no indication in any of the settlements as to who is the competent authority to decide about the validity or the life of the panels or to put an end to it and the so-called DGM is not stated to be the competent authority. It is submitted that the first settlement fixed the validity of the panels till 31.12.1991 never used the word that it is going to be lapsed on 1.1.1992. Similarly when the validity was extended in the subsequent settlements to be operated at least till 31.3.1997. Sometimes even without the extension of the panels would lapse after 31.3.1997, it is strange as to how the so-called competent authority or the authorities of the bank thought or decided to lapse them from 1.4.1997. It is submitted that the balance of unabsorbed candidates like the workman and the similarly situated candidates cannot more than 10% of the total empanelled candidates. Therefore, unless the Bank is able to demonstrate that the balance of unabsorbed candidates as on 31.3.1997 was only 10% of the total empanelled

candidates, the theory of the lists becoming lapsed leaving no scope for absorption becomes an ingenious theory. It can be shown out of 6,932 empanelled candidates 3,178 were not absorbed and it should have been more than 10%. It is submitted that though an empanelled list was pending for absorption of such candidates on the date of first settlement, new lists of empanelled candidates in three categories were prepared by virtue of the subsequent settlements which were sought to be implemented with all seriousness. Although such panels could not be fully exhausted by the date of the last settlement dated 26.4.1991, the existing panels were enlarged by allowing others also to join such panels with supplementary panels to be used after the earlier panels of temporary employees have been exhausted. This will only mean that the bank was capable of absorbing all the candidates in the panels which were in existence as on 26.4.1991. It is submitted that the Banks were directed that recruitment of all temporary employees in the Clerical or Subordinate cadres shall be stopped forthwith. In pursuance of such directions an advertisement was issued in the local Newspapers as per the settlements and based upon that panels were prepared after an interview. Two salient features of the instructions of the Government are that there must be one time and whole time settlement to consider the absorption of such temporary employees in the existing panels and till then no Bank will be permitted to make any temporary appointment. It is submitted that the action of termination such employees like the workman by virtue of impugned proceedings without implementing the settlements would be illegal and it would be denial of unfair labour practice within the meaning of Section 2(a) of Industrial Disputes Act which cannot be allowed to be perpetuated. It is submitted that discontinuance of workmen after 31.3.1997 to serve in the Bank in any capacity amounts to retrenchment. It could not have done without notice and it violates Section 25(ff) of I.D. Act and the said action is violative of principles of natural justice guaranteed under Chapter-III of the Constitution of India. Therefore, the action of D.G.M. the so-called competent authority who has passed the impugned proceedings amounts to retrenchment of the workman without one month's notice or payment in lieu of such notice, wages for the period of notice. Thus the impugned proceedings are issued in colourable exercise of power, without jurisdiction, arbitrary, illegal and are therefore liable to be quashed. The workman submits that though the respondent management informed in its letter dated 10.10.1990, the Central Government stating that they are implementing the instructions issued in proceedings dated 16.8.1990. In fact the management failed to implement the same for the reasons best known to them. It is further submitted that the M.O.U. dated 27.2.1997 said to have been entered into between the parties does not binds the workmen as it has no legal entity. However, the said M.O.U. has not published anywhere to brought to the notice of the workmen whose rights are being affected. In fact, when settlements were arrived at in the year 1987, the Central Government directed the respondent management to give vide publicity by its letter dated 30.11.1987 and 29.12.1987. Accordingly those settlements were brought to the notice of workmen by way of advertisement. The said process was not followed while entering into M.O.U. dated 27.2.1997, through which the affected parties like the workman was kept in dark about the lapse of the selected panels. It is further submitted that the management has failed to implement the selected, panels during its valid tenure. The management adopted the back door methods contrary to the settlements and filled up the vacancies. The same is evident from the proceedings dated 18.11.1993, a copy of the same is filed in the material papers and the same may be read as part of the Claim Petition. It is submitted that the management adhere to the procedure envisaged by the Central Government in its instructions dated 16.8.1990 in the year 1995. The same was not followed in the year 1997 despite there being vacancies. The management has followed the procedure of calling candidates through Employment Exchange instead of giving chance to the empanelled candidates like the workman herein. It is pertinent to mention here that the respondent management sent call letters to the similarly situated candidates like the workman in the month of June, 1997, subsequent to the passing of impugned termination orders. After knowing the fact that they are litigating the issue by way of dispute, the management has refused to engage those candidates, copies of call letters issued are filed herein along with Claim Petition. The workman reiterates that the panels are meant for absorption but not for termination. In view of the same a duty is cast upon the respondent management to engage the empanelled candidates like the workman even in temporary vacancies till they are absorbed permanently in regular vacancies. The workman submitted that ever since the date of his removal from service, he remained unemployed, as he could not secure any alternative employment inspite of his best efforts. Thus, the action of the respondent Management in terminating the services of the workman by oral order with effect from 31.3.1997 is unjust, illegal, opposed to principles of natural justice besides being violative of various provisions of I.D. Act and the same is liable to be set aside.

4. The Respondents filed counter refuting the averments made by the Petitioner in the claim petition, and the contention of the Respondent in brief runs as follows:

The respondent submits that the claim petition is not valid and goes against the Industrial Disputes Act, 1947. They deny the allegations made in the claim statement and demand proof of those allegations. The respondent bank used to hire temporary subordinate staff to cope with staff shortages and government-imposed restrictions. The All India State Bank of India Staff Federation advocated for temporary employees with less than 240 days of service to be considered for permanent appointments. Discussions were held between the federation and the bank, leading to a settlement that aimed to provide fair treatment to temporary employees. The settlement includes various factors, some of which are relevant to the current application.

5. On 17.11.1987, an agreement was signed between the Federation and the management Bank under Section 2(p) read with Section 18(1) of the ID Act, 1947 read with Rule 58 of Industrial Disputes (Central) Rules, 1967.

As per settlement the temporary employees were categorized into three categories, detailed as under:

i) Category 'A':

Those, who have completed 240 days of temporary service in 12 calendar months or less after 01.07.1975.

ii) Category 'B':

Those, who have completed 270 days aggregate temporary service in any continuous block of 36 calendar months after 01. 07.1975.

iii) Category 'c':

Those, who have completed a minimum of 30 days aggregate temporary service in any calendar year after 01.07.1975 or minimum of 70 days aggregate temporary service in any continuous block of 36 calendar months after 01. 07.1975.

In the initial settlement, it was agreed that temporary employees would be given an opportunity for permanent appointments in the bank for vacancies expected to arise from 1987 to 1991. However, on July 16, 1988, a subsequent agreement was reached between the Federation and the bank, extending the consideration period for vacancies from 1987 to 1992. This agreement was signed under relevant sections of the Industrial Disputes Act and its associated rules, and it will be referred to as the second settlement.

6. Later, on October 27, 1988, another agreement, referred to as the third settlement, was reached between the Federation and the bank. It introduced a new clause, 1-A, after clause 1 in the initial settlement. This clause stated that individuals engaged on a casual basis to fill in for leave or casual vacancies in positions like messengers, farrashes, cash coolies, water boys, sweepers, etc., would also be considered for permanent appointments in the bank for vacancies expected to arise from 1988 to 1992. Therefore, not only temporary employees receiving scale wages but also casual or daily wagers would be eligible for permanent absorption into the bank.

7. Government of India vide its letter dated 16.8.1990 issued guidelines to all the public sector banks with regard to the absorption of temporary employees in public sector banks. The said guidelines were issued to implement along the lines of the approach paper on the issue provided by a committee constituted in this regard. The Government of India guidelines made it clear that all the public sector banks may follow the provisions laid down in the approach paper. The approach paper specified that the cases of temporary employees who had put in not less than 240 days of temporary service in 12 consecutive months and who are entitled to benefit of Section 25F of the Industrial Disputes Act might be decided by entering into a settlement with the representative union. With respect to temporary employees who had put in less than 240 days of service in 12 consecutive months or less, a settlement could be avoided, however, if the Management so desired they could enter into a conciliation settlement with the representative union. In para 6(h) it is mentioned that only those temporary employees who had put in temporary service of 90 days or more days after 1.1.82 would be eligible for consideration under the scheme. Although the Government guidelines envisaged a settlement in respect of temporary employees who had put in temporary service of 90 days or more days, the Bank by way of further concession entered into settlements even in respect of those who had put in less than 90 days.

8. According to the settlement dated November 17, 1987, temporary employees who had worked with the bank from July 1, 1975, to December 31, 1987, were given an opportunity to be considered for permanent appointment against future vacancies. The eligible candidates were categorized into three groups based on their completed days of service: Category A (240 days), Category B (270 days), and Category C (70 days). The waitlisted candidates' panel would remain valid until December 31, 1991. Through a modification in the second settlement on July 16, 1988, the qualifying service date was extended to July 31, 1988, instead of December 31, 1987. An advertisement was issued on August 1, 1988, calling for applications from temporary employees who received scale wages, region-wise, to fill the vacancies in different regions.

9. The third settlement on October 27, 1988, was a result of the union's advocacy for casual or daily wage workers. It was decided to consider all candidates for vacancies likely to arise between 1988 and 1992. While the number of vacancies in some regions exceeded the waitlisted temporary employees, the Chennai circle was an exception as there were more waitlisted temporary candidates than available vacancies.

10. On January 9, 1991, the fourth settlement was reached, extending the validity of the panel from 1991 to 1994. After December 31, 1994, the remaining candidates on the panel would have no claim. Following the third settlement, the bank issued an advertisement on May 1, 1991, inviting applications from casual/daily wage workers for consideration for permanent appointment. This created concerns among temporary employees who felt threatened if a common list was created. However, if the casual daily wagers were placed at the end of the list, there would have been no cause for concern.

11. In response, the SBI Employees Union filed a writ petition (Writ Petition No.7872 of 1991) seeking relief to operate the waitlist based on the August 1, 1988, advertisement and not to operate any list based on the May 1, 1991,

advertisement. An interim stay was granted regarding the latter aspect, which lasted for more than eight years until July 23, 1999. Consequently, no list of casual posts/daily wage workers could have been drawn up during this period, and the list of temporary employees should have been in operation. The writ petition was finally disposed of on July 23, 1999, by which time the relief sought in the petition would have been implemented.

12. The 5th settlement was arrived at on 30th July 1996 requiring the panel to be kept alive up to 31st March, 1997 and this was in respect of the vacancies which became available up to 31st December 1994.

13. The respondent submits that the petitioner has not worked for more days than those who have been absorbed into the vacancies as agreed upon. They deny the petitioner's claim of continuous years of work and state that the petitioner, who has worked for less than 240 days in a 12-month period from 1975 to 1988, has no right to seek absorption in the bank except under the settlements. The case of the petitioner has already been considered under several settlements, and therefore, all the provisions and terms of those settlements are binding on them. The respondent submits that the applicant and other ex-temporary employees do not have an independent right, and their claims are based solely on the settlements. The preparation and maintenance of panels are in compliance with the agreed terms of the settlements. The panels, including the applicant, have ceased to exist after the designated period, and the remaining candidates have no right or claim against the bank. The settlements explicitly stated that the panels would not be kept alive until all candidates were absorbed. The applicant is barred from questioning the validity of the settlements after accepting the benefits and empanelment. According to the settlement dated January 9, 1991, vacancies until December 1994 were to be filled based on seniority from the 1989 panel. After that, the panel lapsed, and the remaining candidates have no claim for permanent absorption. The same applies to the 1992 panel. The respondent submits that only the temporary service rendered from January 1, 1975, to July 31, 1988, is considered for permanent absorption, and days worked after that period are not counted since the panels had already lapsed. The bank never promised to absorb all candidates in the panel, as the advertisement clearly stated that candidates would be considered for absorption in vacancies until 1992. According to the respondent, the vacancies were identified and the ex-temporary employees in the panels were absorbed based on seniority, as per the settlements between the Federation and the management Bank. The respondent submits that mere empanelment does not guarantee absorption for the petitioners, and keeping the panels alive after March 31, 1997, goes against the settlements. The respondent submits that the settlements between the State Bank of India and the All India State Bank of India Staff Federation have the force of law and are binding on the parties. The petitioners themselves have acted upon the settlements by being on the panel, and therefore, they are bound by the terms of the settlements. The maintenance of panels is in line with the agreed terms of the settlements, and the Bank has strictly adhered to these terms. The present application is based solely on the settlements and not on any independent right or provision of the Industrial Disputes Act. The panels under the settlements had a specific time limit, and this term cannot be modified in any legal proceedings. Therefore, those temporary employees who could not be accommodated due to lack of vacancies have no further rights for regularization under the settlements or otherwise. The bank has fully complied with the settlements, and the mentioned circulars and letters were merely directives to discontinue the practice of engaging temporary employees, which was also a term of the settlements. It is submitted that some writs were filed by certain temporary employees who were also called for interview and empanelled. In writ petition No.12964/94, the Hon'ble High Court went into similar contentions in detail and the Learned Judge also referred to the settlements and subsequently held that the Petitioners therein were not entitled to any relief and the only relief they can claim is enforcement of settlements, if there is any right flowing from it or it has been violated. The relevant operative portion of the said judgement is as follows:

"It is needless to state that the settlement arrived at between the All India State Bank of India Staff Federation which is the majority union and the bank management is binding on the petitioners also. It is not, at all the case of the petitioner that any of the terms of the settlement has been violated by the bank's management. If the Petitioner had worked in the bank on part-time basis before 31.5.94, that itself would not vest in him a right to claim that his services should be regularized on permanent basis against a full time cadre post. The claim put forth by the Petitioner in the present petition is therefore misconceived and not tenable. However, it is open to the Petitioner to claim any right which flows from the settlement between the union and the bank management. As already pointed out that it is not the grievance of the Petitioner that some right which has flown from the settlement in favour of the Petitioner has been denied by the bank management. Therefore, I domestic enquiry not find any ground, let alone substantial ground, to grant the kind of relief sought for by the Petitioner. Writ petition fails and is accordingly dismissed. No costs."

The respondent submits that the settlements clearly state that the panels would cease to exist at the end of the designated period, and there would be no further temporary or casual recruitment. The relief sought by the applicant, if granted, would essentially make temporary employment permanent through a backdoor entry, which goes against the settlements, as well as Articles 14 and 16 of the Constitution. It would also deprive rightful claimants of their chances through proper recruitment procedures. The settlements were intended as a one-time measure to end the practice of temporary engagement, and the rights of the applicant were determined by these settlements. Therefore, there is no legitimate expectation or estoppel, as contractual rights arising from an industrial settlement take precedence. The bank did not make any statement or representation guaranteeing permanent appointment, as clearly

stated in the advertisement issued pursuant to the first settlement, which outlined the process of being considered for permanent appointment and being wait-listed based on suitability and subject to vacancies, with the waitlist valid until 1991.

14. The ex-temporary employees in the panels filed a writ petition before the High Court of Andhra Pradesh, which was initially allowed by the Single Judge. However, the bank appealed this decision, and the Division Bench of the High Court set aside the Single Judge's order. The ex-temporary employees then filed a Special Leave Petition before the Supreme Court, which was also dismissed. Therefore, the reference to the Single Judge's judgment in the writ petition is irrelevant, as it has been overturned. The petitioner has not worked for the required 240 days in any preceding 12-month period, so the reference to Section 25F of the Industrial Disputes Act is not relevant. The petitioners' claim regarding their service and educational qualifications require strict proof. The allegation of termination is incorrect, as the vacancies were filled based on seniority, and the non-engagement of the petitioner does not constitute termination. Temporary employees are subject to the availability of work, and there is no obligation to continue their employment when there is no work. The bank has not engaged in unfair labour practices, and the settlements are binding on the petitioner, having been fully implemented without violating any provisions of the Industrial Disputes Act. The issue has been addressed in various judgments of the Supreme Court and High Courts, and the petitioner's industrial dispute lacks merit and should be dismissed.

15. The Petitioner in support of his claim examined himself as WW1 and also filed photocopies of 6 documents which were marked as Ex.W1 to W6. Ex.W1 is the news paper advertisement, Ex.W2 is the interview call letter, Ex.W3 is panel list, W4 to W6 are service certificates. On the other hand, Respondent filed photocopies of 12 documents which were marked as Ex.M1 to M12. Ex.M1 to M4 are settlements between Respondent and All India State Bank of India Staff Federation. Ex.M5 is conciliation proceedings. Ex.M6 is another settlement. Ex.M7 is Memorandum of understanding. Ex.M8 is statement giving the particulars of 1989 messenger panel. Ex.M9 is statement of 1989 non-messenger panel. Ex.M10 is statement of 1992 panel. Ex.M11 is order of Hon'ble High Court in WA No.86/98 and Ex.M12 is order in SLP No.11886-11888.

16. On the basis of the pleadings and the submissions made by the parties, following points emerge for determination:-

- I. Whether the action of the Respondent Management in terminating the services of the workman, Sri A. Ramulu, Ex-Non-Messenger w.e.f, 31.03.1997 is legal and justified?
- II. Whether the workman in terms of settlements arrived at between the Respondent Bank Management and the Federation of Employees is entitled for regularization/absorption in the service of Bank?
- III. To what relief, the workman is entitled for?

Findings:

17. **Points No. I & II:-** The workman claims that he had been working with the Respondent Bank on 1.3.1982 on temporary basis. In the year 1988, Respondent issued advertisement for calling applications from the then temporary subordinate employees for the post of messenger. The workman moved application and he received interview call letter from bank to attend the interview, workman attended interview and Respondent Bank prepared a panel list of all the successful candidates in the year 1991 and the Petitioner's name appeared also in the panel list. The Respondent Bank utilized the services of the empanelled employees and workman on temporary basis till March 1997 and some of the empanelled employees were given permanent appointment basing on the number of days of service put up by them. Thereafter, the Respondent No.2 issued a Letter dated 25.03.1997 directing all Branch Managers not to utilize the services of the empanelled Messenger and to declare that the panel list of 1991 will lapse by 31.03.1997. Therefore, all the remaining empanelled employees as per the panel list of 1991, were denied employment after 31.03.1997. It is further submitted by the workman that Respondent No.2 issued another advertisement in the year 1991 calling application for interview from the then temporary working messengers and selected some of the candidates among the applicants and prepared another panel list of 80 employees. The said panels lapsed in March, 1997. However, surprisingly all the temporary employees as per Second panel List of 1993 were given permanent appointment and that order was issued just 15 days before the lapse of the panel List. It is further submitted that the empanelled employees of Second panel List of 1993 were juniors to the temporary employees of first panel list of 1991 in terms of number of days of service put up by them. Therefore, the act of Respondent Bank appointing the junior employees of second panel list ignoring the senior employees of the first panel list of 1991 is discriminatory, arbitrary and illegal which goes to indicate that the Respondent Bank chose to favour the employees of second panel List of 1993 for the reason best known to the Respondent Bank.

18. On the other hand, the Respondent countered the allegations made by the workman and submitted that the persons who do not have the requisite number of days of service as per the settlement, could not be considered for permanent absorption. It is contended that the bank had never promised that all the candidates in the panel will be absorbed. In the advertisement itself it was made clear that the candidate will be considered for the absorption in the vacancies that may arise up to 1992. Since the panel list had already lapsed on 31.03.1997, and the vacancies were

already filled up by absorbing the temporary attendants and daily wagers/casual employees respectively in order of their seniority in the empanelment, therefore, the consideration of engaging their services including workman could not have arise. Therefore, panel list of daily wagers prepared in the year 1992 was used for filling vacancies which arose up to end of 1994 and the said panel list automatically lapsed after the filling of the aforesaid vacancies.

19. In support of his claim, the workman has examined himself as WW1 and in chief examination, he reiterated his claim as made in his petition. Further he stated Ex. W4 to W6 are the service certificates according to which the workman has worked for total number of 427 days. In cross examination, WW1 states that he was not given any posting order at the time of joining the service nor at any other time. On the oral instruction of Branch Manager, he worked in the Branch. He further admitted in the cross examination, "I was appointed as temporary messenger on temporary basis w.e.f. 1.3.1982 initially for 74 days. I was not sponsored by any employment exchange. I did not undergo the regular selection process before my appointment as a temporary messenger. I was called for interview and my name was included in the panel of temporary messengers. The panel was prepared basing on the no. of days of service put in by the temporary employees. Some of the employees whose names were included in the panel were given regular employment in the bank in order of their seniority in the panel. I was not given any letter stating that I was terminated from service. I did not give any letter stating that I was terminated from service and that I want reinstatement into service. I did not work for 240 days in any year in my entire service in the bank. It is not true to say that I was terminated from service and that I am not getting the work as the vacancies were filled up by the bank with the temporary employees from the panel. I am not having any document to show that any of my juniors are continuing in service. I am not having any document to show that any person who had worked for less no. of days than me was given regular appointment in the bank." On the other hand, the Respondent has examined MW1 and in his chief examination the witness had stated that the petitioner was included in the panel list 1991 however, as the existing vacancies at that time were exhausted, his turn didn't come, and he could not be given permanent employment in the bank. All the appointments were made strictly in accordance with the settlement between the SBI management and the SBI Staff Federation. The witness has also stated that as per the seniority was determined on the basis of number of days as temporary service put in by the employee in the given period and all the appointments were made as per seniority. Witness states that the petitioner had not worked for 240 days in any year in his entire temporary service in the bank. The petitioner and other temporary employees were not terminated from service by the Bank. The vacancies were filled up on regular basis with the temporary employees from the panel list and which were expired in terms of settlement on 31.03.1997 and there were no vacancies to absorb rest of the empanelled employees.

20. In view of the above statement of witness, it manifests that, the workman did not work for 240 days continuously in any year in the service. Therefore, the protection of the provisions under Section 25 (f) of Industrial Disputes Act, 1947 against the retrenchment is not available to the workman. The initial burden of proof was on the workman to show that he had completed 240 days of continuous service in the employment of bank from the date just preceding date of termination, but he failed to discharge his burden of proof.

In the case of **Mohan Lal v. Management BEL 1981 SCC 225**, the Hon'ble Apex Court have held that:

"Before a workman can claim retrenchment, not being in consonance of Section 25 of the ID act. he has to show that he has been in continuous service of not less than 1 year with the employer who had retrenched him from service."

"Clause (2)(a) provides for a fiction to treat a workman in continuous service for a period of one year despite the fact that he has not rendered uninterrupted service for a period of one year but he has rendered period of 240 days during the period of 12 calendar service for months counting backwards and just preceding the relevant date being the date of retrenchment. In other words, in order to invoke the fiction enacted in clause (2)(a) it is necessary to determine

first the relevant date, ie the date of termination of service which is complained of as retrenchment. After that date is ascertained, move backward to a period of 12 months just preceding the date of retrenchment and then ascertain whether within the period of 12 months, the workman has rendered service for a period of 240 days. If these three facts are affirmatively answered in favor of the workman pursuant to the deeming fiction enacted in clause (2)(a) it will have to be assumed that the workman is in continuous service for a period of one year and he will satisfy the eligibility qualification enacted in Section 25-F"

Therefore, in view of the above law, the claim of the workman that Respondent has not exhausted procedure before his retrenchment from service is not tenable.

21. Further, the workman claimed that his name was included in the empanelment for regularization on temporary posts after holding interview in 1989, but he was not regularized in the service and the temporary employees junior to him in service were appointed on permanent posts from the empanelment. However, WW1 in cross-examinations has admitted that he was not sponsored by the Employment Exchange. He could not indicate any instance of regularizing the temporary employee junior to him from the panel. Since, as per settlements arrived at between the Federation of Bank Employees and Respondent Bank Management, the vacancies for the empanelled employees of 1989 were available which would arise upto December, 1994 and those vacancies were absorbed from the panel list 1991 in order of seniority. Therefore, due to non-availability of the vacancies, and the workman not

having the requisite number of days in service as compared to the other employees who were ranked senior to him in the list, could not be regularized. Therefore, workman being junior to other workmen in the panel, could not be granted regularization/absorption as a permanent employee in the Bank. It is admitted by the workman that the panel list was prepared in terms of settlement arrived at between the State Bank Management and Federation of State Bank Management Employees Association and therefore, same is binding on both parties under the provision of Section 18 (1) of the Industrial Disputes Act. Therefore, in view of the above, settlements and awards is also binding on the workman.

In the case of National Engineers Industries v. St. of Rajasthan Civil Appeal No. 16832/1996 dated 01.12.1999, three judges bench of Hon'ble Apex Court have held:-

"In Ram Pukar Singh and Ors. Vs. Heavy Engineering Corporation and Ors. [1994] 6 SCC 145 this Court said that a settlement arrived at between the management and the sole recognised union of workmen under section 12(3) read with section 18 of the Act would be binding on all the workmen whether members of the union or not."

Therefore, mere enlisting the name of workman, a in the list of employees for regularization, it does not entitle workman for absorption in the Bank's service as a permanent employee unless the vacancy is available at the stage of his seniority. As per the settlement, the panel lists expired on 31.03.1997, and thereafter, the life of the panel list could not be extended. In the **Writ Petition No. 12964/1994, the Hon'ble High Court observed:-**

"It is needless to state that the settlement arrived at between the All India State Bank of India Staff Federation which is the majority union and the bank management is binding on the petitioners also. It is not at all the case of the petitioner that any of the terms of the settlement has been violated by the Bank's Management. If the petitioner had worked in the Bank on Part-time basis before 31.5.94, that itself would not vest in his a right to claim that his services should be regularised on permanent basis against a full time cadre post. The claim put forth by the petitioner in the present petition is therefore misconceived and not tenable. However, it is open to the petitioner to claim any right which flows from the settlement between the union and the Bank Management. As already pointed out that it is not the grievance of the petitioner that some right which has flown from the settlement in favour of the petitioner has been denied by the Bank Management. Therefore, I do not find any ground, let alone substantial ground, to grant the kind of relief sought for by the petitioner. Writ Petition fails and is accordingly dismissed. No costs."

Therefore, the claim of workman in the present matter can not be considered beyond the terms and conditions of aforesaid settlement between Bank Management and Federation of employees.

Further, in the case of State of U.P. v. Harish Chandra AIR 1996 SC 2173, the Hon'ble Apex Court have held:-

"Notwithstanding the aforesaid Statutory Rule and without applying the mind to the aforesaid Rule, the High Court relying upon some earlier decisions of the Court came to hold that the list does not expire after a period of one year which on the face of it is erroneous. Further question that arises in this context is whether the High Court was justified in issuing the mandamus to the appellant to make recruitment of the Writ Petitioners. Under the Constitution a mandamus can be issued by the Court when the applicant establishes that he has a legal right to the performance of legal duty by the party against whom the mandamus is sought and said right was subsisting on the date of the petition. The duty that may be enjoined by mandamus may be one imposed by the Constitution or a Statute or by Rules or orders having the force of law. But no mandamus can be issued to direct the Government to refrain from enforcing the provisions of law or to do something which is contrary to law. This being the position and in view of the Statutory rule contained in Rule 26 of the Recruitment Rules we really fail to understand how the High Court could issue the impugned direction to recruit the respondents who were included in the select list prepared on 4.4.87 and the list no longer survived after one year and the rights, if any, of persons included in the list did not subsist."

Similarly in the case of Syndicate Bank and other Vs. Shankar Paul AIR 1997 SC 3091, it was held :

"Temporary were made from the empanel of eligible candidates prepared by calling names from employment exchange, the empanel was valid for only year. When the said employee claimed permanent absorption in service, the Apex Court has held that, whatever conditions regarding these empanelled candidates had they come an end on the expiry of one year."

In the present matter also, since the panel list 1989, which was prepared for the vacancies arising up to December 1994, its life expired on 31.03.1997, and it could not be extended after the said expiry date. Further, the panel list exhausted due to from the vacancies available upto 1994 with the absorption of empanelled senior employees. Thus, the workman being junior in that panel list seniority could not get regularization / absorption in the service. Although numerous pleas have been taken by the Petitioner in his claim statement, but as per settled law, here, we are confined to the reference through which the dispute of dismissal of workman has been referred to the Tribunal for adjudication. In view of fore gone discussion, workman failed to prove his claim as alleged in his petition against the dismissal from service as well as claim for regularization and as such, the action of the Respondent bank in dismissing the services of Sri A. Ramulu, Ex.Messenger by way of oral orders w.e.f. 31.3.1997 is justified.

Points No. I & II is answered accordingly.

22. Point No. III:-

In view of the findings given in Points No. I & II, the claim of the workman against the dismissal order and for regularization of his service in Respondent Bank is unfounded and devoid of merits. Therefore, the workman is not entitled for any relief of reinstatement or regularization in the employment of Respondent Bank. Hence, his claim petition is liable to be dismissed.

ORDER

In view of the fore gone discussion, it is held that the action of the Respondent bank in dismissing the services of Sri A. Ramulu, Ex. Messenger by way of oral orders w.e.f. 31.3.1997 is justified. Hence, the Petitioner is not entitled for any relief as prayed for and consequently petition stands dismissed. Reference is answered accordingly.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 18th day of September, 2023.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the
Petitioner

WW1: Sri A. Ramulu

Witnesses examined for the
Respondent

MW1: Sri Rupakula Prakash Babu

Documents marked for the Petitioner

Ex.W1: Photocopy of newspaper notification
Ex.W2: Photocopy of Interview letter
Ex.W3: Photocopy of panel list
Ex.W4: Photocopy of service certificate
Ex.W5: Photocopy of service certificate
Ex.W6: Photocopy of service certificate

Documents marked for the Respondent

Ex.M1: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.17.11.87
Ex.M2: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.16.7.88
Ex.M3: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.27.10.1988
Ex.M4: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.9.1.1991
Ex.M5: Photocopy of conciliation proceedings before the Regional Labour Commissioner(C) dt.9.6.1995
Ex.M6: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.30.7.1996
Ex.M7: Photocopy of Memorandum of understanding dt. 27.1.1997
Ex.M8: Photocopy of statements giving the particulars of 1989 messenger panel.
Ex.M9: Photocopy of statement of 1989 Non messenger panel
Ex.M10: Photocopy of statement of 1992 panel
Ex.M11: Photocopy of order of Hon'ble High Court in WA No.86/98 dt. 1.5.98
Ex.M12: Photocopy of order in SLP No.11886-11888 of 1998 dated 10.8.98

नई दिल्ली, 10 अक्टूबर, 2023

का. आ. 1643.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मध्य रेलवे के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कोलकता के पंचाट (संदर्भ संख्या 13/2022) प्रकाशित करती है।

[सं. एल-41011/43/2022- IR(B-I)]

सलोनी, उप निदेशक

New Delhi, the 10th October, 2023

S.O. 1643.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 13/2022) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court No.1 Mumbai* as shown in the Annexure, in the industrial dispute between the management of Central Railway and their workman.

[No. L- 41011/43/2022- IR(B-I)]

SALONI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, MUMBAI

Present

JUSTICE KESANG DOMA BHUTIA

Presiding Officer

REFERENCE NO. CGIT-1/13 of 2022

Parties: Employers in relation to the management of
Central Railway
And
Their workmen

Appearances:

For the first party Management : Mr.Komal Singh, Adv.

For the second party workmen : Absent.

Dated the 21st day of August, 2023.

AWARD

The management is present through its learned counsel.

None appears from the side of the union, the Divisional Secretary, Swatantra Railway Bahujan Karmachari Union, Pune, which has raised the present dispute.

Record shows notice of this reference case sent to the Divisional Secretary, Swatantra Bahujan Karmachari Union, Pune has returned with postal endorsement “Not claimed” on 25.1.2023. It is settled law that not claimed tantamount refusal and is a good service.

The Central Government, Ministry of Labour by order no.L-41011/43/2022 – IR (B-I) dt.16.06.2022 24.05.2022 has referred the following dispute to this Tribunal for adjudication.

“Whether the action of the management of Divisional Railway Manager, Central Railway, Pune in deducting Rs.10,000/- from the salary of Shri Vithal Kondiba Londhe per month is legal and justified? If not, what relief the concerned applicant is entitled to?”

None appears for the union despite having knowledge of this reference case, a presumption can be drawn the union which has espoused the dispute is no longer interested to pursue with the dispute perhaps the matter might have been settled with the management of Railway no longer it has any dispute on the issue under reference against the management.

In view of the above, no dispute award is passed.

Accordingly, reference case no.CGIT-13 of 2022 is disposed of.

Justice KESANG DOMA BHUTIA, Presiding Officer

नई दिल्ली, 11 अक्टूबर, 2023

का. आ. 1644.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **अहमदाबाद** के पंचाट (संदर्भ संख्या 1288/2004) प्रकाशित करती है।

[सं. एल-12012/136/99- आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 11th October, 2023

S.O. 1644.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 1288/2004) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Ahmedabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12012/136/99- IR(B-I)]

SALONI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, AHMEDABAD

Present....

Sunil Kumar Singh-I,
Presiding Officer, CGIT cum Labour Court,
Ahmedabad,
Dated 12th September, 2023

Reference: (CGITA) No- 1288/2004

1. The Chief General Manager,
State Bank of India,
7th Floor, Bhadra, Lal Darwaja,
Ahmedabad(Gujarat) – 380001.
2. The Zonal Manager,
State Bank of India,
7th Floor, Paradise Complex, Sayajigunj,
Baroda – 390005.
3. The Manager,
State Bank of India,
Pandésara Industrial Estate,
GIDC, Pandésara,
Surat(Gujarat) – 395003.

.....First Parties/Employer

V

Shri Naresh Kumar Gopalbhai Surati,
C/o. L.M. Palanpura, Khanda,
Kuwa Street, Jimkhana Road,
Surat (Gujarat) – 395 003

.....Second Party/Workman

For the First Parties : Ms. Meena Shah Adv.
For the Second Party : Shri P.F. Baxi Adv.

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/136/99-IR (B-I) dated 28.07.1999 referred the dispute for adjudication to the Industrial Tribunal, Surat (Gujarat) in respect of the matter specified in the Schedule, which was later transferred to this Tribunal on its creation in the year 2004.

SCHEDULE

“Whether the concerned workman Shri Nareshkumar Gopalbhai Surti has put in ‘continuous service’ in the bank as per provisions of Section 25-B?”

AND

“Whether the action of the management of State Bank of India through its officers in terminating/discontinuing the services of the workman Shri Nareshkumar Gopalbhai Surti w.e.f. 29.6.1994 on/with the plea of abolition/cancellation of the waiting list of temporary employees is legal, proper and justified? If not, to what relief the concerned workman is entitled to and from which date and what other directions are necessary in the matter?”

1. The matter is fixed for 12.12.2023 for further hearing. Ms. Meena Shah Ld. Adv. is present for the First Party/employer Bank and Shri P. F. Baxi, Adv. is representing Second Party/workman. Ld. Counsel for both the parties have filed an application Ex.25 to take up the matter today on board on the ground that they have arrived at settlement. In the interest of justice application Ex.25 is allowed. Let the matter be placed in the court today.
2. The matter taken up today. Parties have moved compromise/settlement Ex. 26, where in it is settled between the parties that employer shall pay Rs.2,00,000/- (Rupees Two Lac only) to the workman as lump sum final settlement amount vide Demand Draft No.411767 dated 21.08.2023. The workman Shri Nareshkumar Gopalbhai Surti has been identified by his counsel Shri P. F. Baxi, Adv. and employer State Bank of India represented by Shri Vishal Sharma, Branch Manager, Pandesara I E, has been identified by Ms. Meena Shah, Adv. The settlement is verified accordingly. The aforesaid demand draft is said to have been already handed over to the workman today.
3. Thus the reference is disposed of in the light of the settlement Ex. 26. The settlement Ex. 26 shall remain part of the award. The award is passed accordingly.

Let two copies of the Award be sent to the Appropriate Government for the needful and for publication U/s 17(1) of Industrial Disputes Act.

SUNIL KUMAR SINGH-I, Presiding Officer